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Missouri State Auditor

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Fiscal Notes Prepared by the Missouri State Auditor's Office in 2012

Fiscal Note Number	Date Received	Fiscal Note Description	Date Submitted to Secretary of State
12-01	01/04/2012	Proposed Constitutional Amendment - Article III, (Patek) - Modification to Maximum or Minimum Loan Rate	02/03/2012
12-02	01/10/2012	Proposal Related to Chapters 149 and 196, RSMo, version d (Hess) - Tobacco Tax	02/08/2012
12-03	01/10/2012	Proposal Related to Chapters 149 and 196, RSMo, version e (Hess) - Tobacco Tax	02/08/2012
12-04	01/10/2012	Proposal Related to Chapters 149 and 196, RSMo, version f (Hess) - Tobacco Tax	02/08/2012
12-05	01/10/2012	Proposal Related to Chapters 149 and 196, RSMo, version g (Hess) - Tobacco Tax	02/08/2012
12-06	01/10/2012	Proposal Related to Chapters 149 and 196, RSMo, version h (Hess) - Tobacco Tax	02/08/2012
12-07	01/10/2012	Proposal Related to Chapters 149 and 196, RSMo, version i (Hess) - Tobacco Tax	02/08/2012
12-08	01/17/2012	Proposed Constitutional Amendment - Article III, version 2, (Patek) - Modification to Loan Rate	02/14/2012
12-09	01/18/2012	Proposed Constitutional Amendment - Article IX (Ellinger) - Teacher Tenure	02/16/2012
12-10	01/20/2012	Proposed Constitutional Amendment - Article III (Jones) - Missouri Stem Cell Research and Cures Initiative	02/21/2012
12-11	02/01/2012	Proposed Constitutional Amendment - Article X, version 1, (Patek) - Alcoholic Beverage Taxes	Rejected by Sec of State
12-12	02/01/2012	Proposed Constitutional Amendment - Article X, version 2, (Patek) - Beverage Taxes	Rejected by Sec of State
12-13	02/17/2012	Proposed Constitutional Amendment - Article X, version 3 (Patek) - Beverage Taxes	03/19/2012
12-14	02/17/2012	Proposed Constitutional Amendment - Article X, version 4 (Patek) - Alcoholic Beverage Taxes	03/19/2012
12-15	05/30/2012	Senate Joint Resolution No. 51 - Changes to the court plan	07/03/2012
12-16	05/30/2012	Senate Bill No. 464 - Establishing state-based health benefit exchange	07/03/2012

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-01)**

Subject

Initiative petition from Jewell Patek regarding a proposed constitutional amendment to Article III. (Received January 4, 2012)

Date

January 24, 2012

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Callaway County**, **Greene County**, **Jackson County Legislators**, **St. Louis County**, the **City of Jefferson**, the **City of Kansas City**, the **City of Mexico**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources. If there is a significant increase in the number of complaints filed by consumers, the officials indicated they may seek future appropriations.

Officials from the **Department of Agriculture** indicated there will be no fiscal impact on their department.

Officials from the **Department of Economic Development** anticipate no fiscal impact from the proposed legislation.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Social Services** indicated there is no impact to their departments' programs.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there will be no fiscal impact to their office.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of the city and therefore, has no fiscal impact on the city.

Officials from the **City of St. Joseph** indicated there will be no fiscal impact on the city.

Officials from **Rockwood R-VI School District** indicated as it is written, they see no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated based on the information presented, there appears to be no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated this legislation would have no fiscal impact on their college.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education**, the **Department of Corrections**, the **Department of Public Safety**, the **Department of Transportation**, the **Missouri Senate**, **Callaway County**, **Greene County**, **Jackson County Legislators**, **St. Louis County, City**, the **City of Mexico**, the **City of St. Louis**, the **City of Springfield**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **University of Missouri**, and **St. Louis Community College**.

Fiscal Note Summary

The proposal is estimated to result in no direct costs or savings to state and local governmental entities.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-02)**

Subject

Initiative petition from Robert Hess regarding a proposed amendment to Chapters 149 and 196 of the Revised Statutes of Missouri. (Received January 10, 2012)

Date

January 30, 2012

Description

This proposal would amend Chapters 149 and 196 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Cass County**, **Cole County**, **Greene County**, **Jasper County**, **St. Louis County**, the **City of Cape Girardeau**, the **City of Kansas City**, the **City of Mexico**, the **City of St. Joseph**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri** and **St. Louis Community College**.

Robert L. Hess, II provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated:

The proposal would simplify one issue related to enforcement of the escrow provisions. Due to the complexity of the current litigation related to the tobacco settlement; however, they do not expect the proposal to immediately result in savings. After litigation concludes, they assume the proposal would result in a savings of .5 AAG II, (\$47,500) resulting in a savings of \$39,963 in FY13 to the General Revenue Fund.

They also note that the amendment to section 196.1003 has the potential to result in an increase to the amount of payments received by Missouri from the Master Settlement Agreement (MSA). Because the amount of the payments is calculated based on variables such as the amount of sales in a given year, they cannot specifically predict the dollar amount.

Officials from the **Department of Agriculture** indicated that there was no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

This proposal will present no costs to the state (none that will not be covered by the increased revenue); but has the potential to add significant funding to Missouri public schools.

According to The Campaign for Tobacco-Free Kids in Washington estimates, this proposal which also would raise taxes on other tobacco products besides cigarettes, would generate about \$283 million annually for the state. The proposal would allot half of that money to elementary and secondary education, 30 percent to colleges and universities and 20 percent to programs intended to prevent people from using tobacco or help them quit doing so.

A 50% allocation to K-12 education would mean an additional \$141.5 million of funding (based on the estimate of The Campaign for Tobacco-Free Kids in Washington). Since it is currently projected that funding for the Foundation Program is approximately \$292 million deficient, these funds could be put to good use.

Officials from the **Department of Higher Education** indicated:

This version of initiative petition 12-02 is estimated to cost their department approximately \$76,170 in the first full fiscal year in which its provisions are in effect.

Section 149.018.8 contains a provision which reads as follows: "The department of higher education shall ensure that at least twenty-five percent of the moneys distributed from the Public Higher Education Account are used for programs and initiatives related to the education, training, and development of future caregivers including physicians, dentists, optometrists, pharmacists, nurses, and other health care providers." This provision would require the MDHE to perform an audit function to track the use of funds distributed to institutions from the Public Higher Education Account created by the petition. The MDHE does not currently perform any such function in relation to funds appropriated to institutions and would be required to hire one full-time employee (FTE) with related experience to fulfill MDHE's duties required by the provision.

With an annual salary of \$50,000 and a fringe-benefit package estimated at 52.34% or \$26,170, the MDHE estimates the total cost of the FTE to be \$76,170 in the first full fiscal year in which the provisions of the initiative petition are in effect. The negative fiscal impact of the initiative petition on the MDHE would subsequently increase in years in which staff salary raises were implemented by the state or the costs of fringe-benefit packages increased in a proportion equal to those cost increases.

Officials from the **Department of Health and Senior Services (DHSS)** indicated:

This initiative petition is similar to IP 11-106. The minor differences do not result in any changes in the fiscal impact submitted in response to IP 11-106 for the DHSS.

Comments:

The fiscal impact for IP 12-02 is the same as that submitted for IP 11-106 for DHSS. At the discretion of the Missouri Healthy Families Commission, DHSS assumes the department may play a role in administering tobacco quit assistance and comprehensive tobacco control efforts. The Missouri Healthy Families Commission would be assigned to DHSS for budgeting and reporting functions only. DHSS would be required to fund the activities of the Commission including the quarterly meetings. At this time, it is not possible to estimate the activities the department will be involved with and therefore assumes \$6,480 (9 members X \$180 per member/meeting X 4 meetings) to unknown costs for the proposed legislation. DHSS assumes all costs will be offset with revenue generated by the language resulting in a \$0 net fiscal impact. DHSS defers to the Office of Administration regarding the statewide fiscal impact to this proposed legislation.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition is no impact to the department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated increased costs would be \$78,499 in fiscal year 2013, \$40,153 in fiscal year 2014, and \$40,570 in fiscal year 2015.

Based upon FY11 sales of 547 million stamps the tax increase of 3.65 cents per cigarette (73 cents per pack of 20) would raise approximately \$399 million per calendar year. Currently, the tax collected on roll your own tobacco is not reported separately from other tobacco products. The department is not able to estimate what the impact the tax increase would have on these products. Additionally, some portion of the \$158.7 million reported as the manufacturers invoice price for all other tobacco products sales during FY11 would include roll your own tobacco. However, if you based the tax increase on other tobacco products on the full amount reported in FY11, it would increase total collections by \$23.8 million dollars per year.

Under current law, wholesales receive discounts equal to three percent of the face value of each cigarette stamp. Based upon the FY11 sales of 547 million stamps, wholesalers received discounts of approximately \$2,789,700. Under the proposed legislation they would have received only \$2,735,000 in discounts if the tax rate did not increase. However, if the tax rate increases by \$.73, wholesalers would have received \$14,769,000. Under the proposed legislation, they would receive approximately \$12 million less in allowance.

The department will have programming expenses of \$40,068 to update and create tobacco processing systems.

The department will need one Revenue Processing Technician to perform additional duties required by Section 196.1029.

Comments

This initiative would go before voters on November 6, 2012. If passed, it would go into effect January 1, 2013. This would give Taxation approximately 45 days to implement. The Department of Revenue suggests the effective date be changed to either July 1, 2013 or January 1, 2014. This would allow time to develop new forms, communicate this to licensees, and to complete any programming needed. This would also allow additional time for the department to request bids on a new stamp design, if necessary.

149.011(2) - By increasing the weight from 3 lbs to 4 lbs per thousand and including language that in can be wrapped in anything, this definition of cigarette would appear to include "little cigars." This would require stamping of packs of little cigars. It is unclear if little cigars would also fall under the MSA requirements and the Fire Safety

requirements. In addition the definition of a cigarette under section 320.350, fire safety statutes, would be in conflict with the definition of cigarette under this legislation.

149.011(14) - The department requests clarification of what products are defined as "other product containing tobacco intended or expected to be consumed without being combusted."

149.018.4 (1) – Section 149.018.4-The department recommends removing the one and one half of one percent limit on the cost of collection and indicating the cost of collection shall be equal to the actual costs incurred by the department. At a minimum, the cap should be increased to three percent of the moneys collected.

149.018.4(3) - Section 149.018.4 - The department requests clarification of how it is to determine if the increase in tax caused a decrease in the consumption of cigarettes. Over the past several years there has been a decline in the number of stamps sold which could be attributed to factors such as discontinued use of cigarettes due to health related issues or to the recent increase of the federal cigarette tax. There has been a slight increase in the amount of tax collected on other tobacco products, which may be attributed to public use of other tobacco products such as pipe tobacco, used as roll you own tobacco or purchasing little cigars which are similar in appearance to cigarettes but taxed at a lower federal tax rate. Each year the contributing factors to any decrease in the amounts deposited to the accounts could change and they may not be easily identified. It might be beneficial to add language that would require DOR to consult with the Department of Health in making the determination on what to attribute any decreases to.

149.018.5 - The department requests clarification of who is to make the distributions to the Tobacco Use Prevention and Quit Assistance Account, to the Public Education Account and the Public Higher Education Account.

149.018.10 - Imposes the taxes on existing inventory of any person licensed under Chapter 149. Retailers are not required to be licensed under Chapter 149. It is unclear if licensees who also operate retail establishments will be required to remit the tax increase on the product held by their retail operation. This legislation would appear to single out those retailers who happen to have a license and would not be inclusive of all other retailers. By only targeting those licensed under Chapter 149 for payment of the tax increase of in stock inventory, it opens up the possibility for stockpiling by other large retailers and allowing them to reap a windfall after the tax increase takes effect. In addition stockpiling of cigarettes could result in stamp shortages by DOR.

196.1023.4 –This appears to requires non-participating manufacturers to post a bond if its cigarettes were not sold in the state during any one of the four preceding calendar quarters, if it or any person affiliated with it failed to make a full and timely escrow deposit or if it or any person affiliated with it was removed from any states directory during any of the five preceding calendar years. This will require continual research to determine if any non-participating manufacturers meet the conditions for a bond. Quarterly escrow deposits must be made within 30 days after the end of each quarter

under section 196.1003.1(4). This legislation appears to require a non-participating manufacturer to post a bond 10 days before the start to the next quarter in order to be listed in the directory for the next quarter. These two requirements appear to be in conflict with each other. In addition the department does not receive information from wholesalers regarding units sold until the 20th of each month. The department will not be able to determine if a bond is required 10 days before a new quarter begins because not all of the information regarding sales will be received more than 10 days before the start of the quarter.

The department recommends adding language to allow the department to promulgate rules in order to carry out the provisions of sections 149.011 to 149.215 or at least to cover the new section 149.018.

Officials from the **Department of Social Services** indicated:

This initiative petition seeks to impose an additional tax on tobacco products. The additional tax is 3.65¢ per cigarette, 25% of the manufacturer's invoice price for roll-your-own tobacco, and 15% of the manufacturer's invoice price for all other tobacco products. The tax is effective January 1, 2013.

The state may retain up to 1.5% of the total collected to cover the additional actual costs incurred by the state in collecting and enforcing the new taxes.

The petition creates the Health and Education Trust Fund for deposit of the remaining additional taxes collected. Money in the fund shall be credited to three separate accounts:

- Tobacco Use Prevention and Quit Assistance Account (20%);
- Public Education Account (50%); and
- Public Higher Education Account (30%).

The General Assembly may appropriate up to 1/5th of 1% of the Tobacco Use Prevention and Quit Assistance Account to the Attorney General and other state agencies for the purpose of enforcing and administering the Master Settlement Agreement.

Tax proceeds can be used only for the purposes stated in the initiative.

On an annual basis, the Director of the Department of Revenue must determine whether the new taxes imposed have directly caused a decrease in tobacco consumption, thereby causing a reduction in the amount of moneys collected and deposited into the Fair Share Fund, the Health Initiatives Fund (HIF), or the state school moneys fund. If this is the case, the Department of Revenue must transfer from the Health and Education Trust Fund to these three funds an amount equal to the amount of money that were not collected and deposited into those funds because of the taxes imposed by this initiative. Transfers are

limited to 3% of the total moneys collected from the additional tobacco tax imposed by this initiative.

The department currently receives money from the Health Initiatives Fund. Theoretically, the Health Initiatives Fund should be made whole by this transfer and there would be no fiscal impact to their department.

The proposal also creates the Missouri Healthy Families Commission to administer the activities funded by the Tobacco Use Prevention and Quit Assistance Account. The department may designate a non-voting, ex officio representative to the Board of Directors of the Commission. They do not expect a significant fiscal impact due to this provision.

The balance of the proposal concerns tobacco stamps affixed to tobacco products and so-called non-participating manufacturers. These provisions have no impact the their department.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there is no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal imposes an additional tax of 3.65¢ per cigarette (73¢ per pack of 20); levies an additional 15% tax on other tobacco products (OTP); levies an additional tax of 25% on newly-defined "roll-your-own" products; changes the compensation rate for wholesalers; and requires non-participating manufacturers to post a bond. The changes are effective January 1, 2013.

New monies are deposited into the Health and Education Trust Fund and allocated as follows:

- 1) Tobacco Use Prevention and Quit Assistance Account (20%);
- 2) Public Education Account (50%);
- 3) Public Higher Education Account (30%).

The Missouri Healthy Families Commission is created to administer the Tobacco Use Prevention and Quit Assistance Account. The Commission is assigned to the Department of Health and Senior Services for budget and reporting purposes. The nine member commission is appointed by the Governor with advice and consent of the Senate.

The Public Education Account is appropriated to DESE for distribution to school districts with at least 25% of the money to be used in direct classroom expenditures.

The Public Higher Education Account is distributed to public colleges and universities in proportion to the total base operating appropriations for all public colleges and universities in the preceding fiscal year.

The proposed amendment to the Revised Statutes of Missouri should not result in additional costs or savings to the Office of Administration should it be approved by the voters. However, there is a statewide impact on revenues to the state.

The Division of Budget and Planning (BAP) calculates the impact of the cigarette tax increase by estimating the quantity of packs currently sold, applying the midpoint formula for elasticity to estimate the new quantity of packs, then calculating increased revenues.

BAP notes the following:

1. BAP estimates the current retail price of one cigarette pack is \$4.50 = \$4.33 price + \$0.17 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. The website "Tobacco Free Kids" estimates the average cigarette tax as \$1.46 per pack, as of June 28, 2011.¹ A tax of \$0.90 (the proposed \$0.73 plus the existing tax of \$0.17) would be below this average, but would exceed the tax rate of four neighboring states.
3. State cigarette taxes in FY11 totaled \$89,965,910, according to the SAM II Data Warehouse.²
4. "Elasticity" is the ratio of the change in quantity sold to the change in price. The CDC estimates the cigarette price elasticity as -0.4,³ which suggests a 4% drop in sales for each 10% increase in cost. However, research by Goolsbee (2004)⁴ demonstrates the elasticity for state cigarette taxes likely exceeds -1.2, and could exceed -2.0, depending on internet access.
5. Given the above information, BAP estimates the elasticity at -0.8 for this analysis.
6. This analysis uses the midpoint-method to estimate the new quantity (Q2) of cigarette packs taxed as a result of the tax increase:
$$E = \{(Q2-Q1) / \text{AVG}(Q2,Q1)\} / \{(P2-P1) / \text{AVG}(P2,P1)\}$$

Based on this information, BAP estimates increased cigarette tax revenues of \$332.4M annually (see Table 1).

Similarly for the increased OTP tax:

¹ <http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf>, accessed November 22, 2011.

² Data warehouse accessed September 21, 2011

³ http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm, accessed September 21, 2011.

⁴ <http://faculty.chicagobooth.edu/workshops/AppliedEcon/archive/pdf/goolsbee.pdf>, accessed September 21, 2011

1. BAP estimates the current retail price of one "unit" of tobacco is \$4.50 = \$4.09 + \$0.41 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. BAP estimates the elasticity as -0.8, as above, and uses the midpoint formula, as above.

Based on this information, BAP estimates increased OTP taxes of \$19.5M annually (see Table 2).

BAP notes that currently, "roll-your-own" products are taxed as an OTP product. However, BAP does not have data on what proportion of OTP sales would qualify as "roll-your-own", and thus for the higher proposed tax rate. Therefore, there will also be an additional unknown increase in revenues resulting from this source.

The proposal directs the DOR to estimate the decreased consumption of cigarettes and OTP as a result of this proposal, and then to hold existing dedicated funds harmless. This analysis estimates a decrease of 60M cigarette packs. At 17¢ per-pack, this implies the DOR would need to transfer an estimated \$10.2M of the new cigarette revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 10.0M. Similarly, this analysis estimates a decrease of 3.7M "units" of OTP sales. At an estimated tax rate of 41¢, this suggests a transfer of \$1.5M of the new OTP revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 0.6M.

BAP defers to DOR for impacts of the changes to the compensation rate and bond postings; and to the Attorney General's Office on the impacts in changes related to the Master Settlement Agreement.

Table 1.

Cigarettes	Current (FY11)	New
Tax (per pack)	\$0.17	\$0.90
Estimated Cost Per Pack	\$4.50	\$5.23

Estimated Packs with Tax Increase, using Midpoint Formula

FY11 Revenues	\$89,965,910
Q1	529,211,235
P1	\$4.50
P2	\$5.23
Estimated Elasticity (see notes)	-0.8
Q2	469,281,167
Total Revenues	\$422,353,050
Increased Revenues	\$332,387,140

Table 2.

OTP	Current (FY11)	New
Tax (per unit)	10%	25%
Estimated Retail Cost Per Unit	\$4.50	\$5.11
Estimated Wholesale Cost Per Unit	\$4.09	
Estimated Units with Tax Increase, using Midpoint Formula		
FY11 Revenues		\$15,551,490
Estimated Current Wholesales		\$155,514,900
Q1		38,023,203
P1		\$4.50
P2		\$5.11
Estimated Elasticity (see notes)		-0.8
Q2		34,328,641
Estimated New Wholesales		\$140,404,142
Total Revenues		\$35,101,036
Increased Revenues		\$19,549,546

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of their city but authorize state taxes and state activities, therefore, they have no fiscal impact on the city.

Officials from the **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, if this results in an increase in general revenue for the State of Missouri, there may be a positive fiscal impact on their college since the majority of their state appropriations come from general revenue funds.

Officials from **Metropolitan Community College** indicated this legislation would have a positive, but unknown, fiscal impact on their college.

The **State Auditor's office** estimated annual audit costs required in the proposal would be up to an estimated \$40,000.

Robert L. Hess, II provided information as a proponent of this initiative petition.

As set forth in the enclosed analysis, tobacco use causes approximately \$2.13 billion in annual health care expenditures in Missouri. Smoking specifically causes approximately \$532 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by \$0.73 per pack, would increase the tax on roll-your-own tobacco by 25%, and would increase the tax on other tobacco products by 15%. Those tax increases would raise over \$283 million in new state revenue to help adults stop smoking, to keep kids from starting smoking, and to support public education and higher education.

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 12% in Missouri and keep 45,700 kids in Missouri from becoming addicted adult smokers and help 28,200 current adult smokers quit. Twenty two thousand (22,000) Missouri residents would be saved from premature smoking-caused deaths.

There would also be a fiscal benefit to the citizens of the state from the improved public health. In the first five years, there would be more than \$30 million in savings from fewer smoking-related pregnancies, births, heart attacks and strokes. The long term savings would be approximately a billion dollars.

**NEW REVENUES, PUBLIC HEALTH BENEFITS & COST SAVINGS
FROM A 73-CENT CIGARETTE TAX INCREASE IN MISSOURI**

Current state cigarette tax: 17 cents per pack (51st among all states)
Smoking-caused costs in Missouri: \$7.61 per pack

Annual healthcare expenditures in Missouri directly caused by tobacco use: \$2.13 billion
Smoking-caused state Medicaid program spending each year: \$532.0 million

New Annual Revenue from Increasing the Cigarette Tax Rate by 73 Cents Per Pack: \$265.7 million

Additional Revenue from Raising OTP Rates to 25% Manufacturer's Price: \$17.3 million

New Annual Revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue if it fails to apply the rate increase to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date.

<u>Projected Public Health Benefits from the Cigarette Tax Rate Increase</u>	
<i>Percent decrease in youth smoking:</i>	12.0%
<i>Kids in Missouri kept from becoming addicted adult smokers:</i>	45,700
<i>Current adult smokers in the state who would quit:</i>	28,200
<i>Smoking-affected births avoided over next five years:</i>	7,950
<i>Missouri residents saved from premature smoking-caused death:</i>	22,000
<i>5-year health savings from fewer smoking-affected pregnancies & births:</i>	\$13.5 million
<i>5-year health savings from fewer smoking-caused heart attacks & strokes:</i>	\$17.4 million
<i>Long-term health savings in the state from adult & youth smoking declines:</i>	\$1.0 billion

- Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).
- Raising state tax rates on other tobacco products (OTPs) to parallel the increased cigarette tax rate will bring the state more revenues, public health benefits, and cost savings (and promote tax equity). With unequal rates, the state loses revenue each time a cigarette smoker switches to cigars, RYO, or smokeless. To parallel the new \$0.90 per pack cigarette tax, the state's new OTP tax rate should be at least 30% of wholesale

price with minimum tax rates for each major OTP category linked to the state cigarette tax rate on a per-package or per-dose basis.

Needed State Efforts to Protect State Tobacco Tax Revenues

Having each of the following measures in place will maintain and increase state tobacco tax revenues by closing loopholes, blocking contraband trafficking, and preventing tax evasion.

State tax rate on RYO cigarettes equals the state tax rate on regular cigarettes	Yes
State tax rates on other tobacco products match the state cigarette tax rate	Yes
State definitions of "cigarette" block cigarettes from wrongfully qualifying as "cigars"	No
State definitions of "tobacco product" reach all tobacco products	No
Loopholes for the new generation of smokeless products (snus, tablets, etc.) closed	No
Minimum taxes on all tobacco products to block tax evasion and promote tax equity	No
"High-tech" tax stamps to stop counterfeiting and other smuggling and tax evasion	No
Retailers lose license if convicted of contraband trafficking	Yes
Street sales and mobile sales of cigarettes and other tobacco products prohibited	Yes
Non-Tobacco nicotine products without FDA approval banned	No

More information available at

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

Campaign for Tobacco-Free Kids 10.07.10 / Ann Boonn, October 26, 2011

Explanations & Notes

Projections are based on research findings that each 10% cigarette price increase reduces youth smoking by 6.5%, adult rates by 2%, and total consumption by 4% (adjusted down to account for tax evasion effects). Revenues still increase because the higher tax rate per pack will bring in more new revenue than is lost from the tax-related drop in total pack sales.

The projections incorporate the effect of both ongoing background smoking declines and the continued impact of the 61.66-cent federal cigarette tax increase (effective April 1, 2009) on prices, smoking levels and pack sales.

These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and lower net new revenues) from possible new smuggling and tax evasion after the rate increase and from fewer sales to smokers or smugglers from other states. For ways that the state can protect and increase its tobacco tax revenues and prevent and reduce contraband trafficking and other tobacco tax evasion, see the Campaign for Tobacco-Free Kids factsheet, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over the lifetimes of persons who stop smoking or never start because of the rate

increase. All cost and savings in 2004 dollars. Projections will be updated when new relevant data or research becomes available.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, <http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf>.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>.

For more on sources and calculations, see
<http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf>

Additional Information on Tobacco Product Tax Increases

Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases, <http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf>.

State Cigarette Excise Tax Rates & Rankings,
<http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf>.

Top Combined State-Local Cigarette Tax Rates (State plus County plus City),
<http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

State Cigarette Tax Increases Benefit Lower-Income Smokers and Families,
<http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf>.

The Best Way to Tax Smokeless Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf>.

The Problem with Roll-Your-Own (RYO) Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0336.pdf>.

How to Make State Cigar Tax Rates Fair and Effective,
<http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf>.

State Benefits from Increasing Smokeless Tobacco Tax Rates,
<http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf>.

The Case for High-Tech Cigarette Tax Stamps,
<http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf>.

State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>

For questions or model legislation, please contact factsheets@tobaccofreekids.org.

For all TFK factsheets on tobacco tax increases, see

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, the Missouri Senate, Cass County, Cole County, Greene County, Jasper County, St. Louis County, the City of Cape Girardeau, the City of Mexico, the City of St. Joseph, the City of St. Louis, Cape Girardeau 63 School District, Hannibal 60 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

Estimated additional revenue to state government is \$283 million to \$423 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown. Escrow fund changes may result in an unknown increase in future state revenue.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-03)**

Subject

Initiative petition from Robert Hess regarding a proposed amendment to Chapters 149 and 196 of the Revised Statutes of Missouri. (Received January 10, 2012)

Date

January 30, 2012

Description

This proposal would amend Chapters 149 and 196 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Cass County**, **Cole County**, **Greene County**, **Jasper County**, **St. Louis County**, the **City of Cape Girardeau**, the **City of Kansas City**, the **City of Mexico**, the **City of St. Joseph**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri** and **St. Louis Community College**.

Robert L. Hess, II provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated:

The proposal would simplify one issue related to enforcement of the escrow provisions. Due to the complexity of the current litigation related to the tobacco settlement; however, they do not expect the proposal to immediately result in savings. After litigation concludes, they assume the proposal would result in a savings of .5 AAG II, (\$47,500) resulting in a savings of \$39,963 in FY13 to the General Revenue Fund.

They also note that the amendment to section 196.1003 has the potential to result in an increase to the amount of payments received by Missouri from the Master Settlement Agreement (MSA). Because the amount of the payments is calculated based on variables such as the amount of sales in a given year, they cannot specifically predict the dollar amount.

Officials from the **Department of Agriculture** indicated that there was no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

This proposal will present no costs to the state (none that will not be covered by the increased revenue); but has the potential to add significant funding to Missouri public schools.

According to The Campaign for Tobacco-Free Kids in Washington estimates, this proposal which also would raise taxes on other tobacco products besides cigarettes, would generate about \$283 million annually for the state. The proposal would allot half of that money to elementary and secondary education, 30 percent to colleges and universities and 20 percent to programs intended to prevent people from using tobacco or help them quit doing so.

A 50% allocation to K-12 education would mean an additional \$141.5 million of funding (based on the estimate of The Campaign for Tobacco-Free Kids in Washington). Since it is currently projected that funding for the Foundation Program is approximately \$292 million deficient, these funds could be put to good use.

Officials from the **Department of Higher Education** indicated:

This version of initiative petition 12-03 is estimated to cost their department approximately \$76,170 in the first full fiscal year in which its provisions are in effect.

Section 149.018.8 contains a provision which reads as follows: "The department of higher education shall ensure that at least twenty-five percent of the moneys distributed from the Public Higher Education Account are used for programs and initiatives related to the education, training, and development of future caregivers including physicians, dentists, optometrists, pharmacists, nurses, and other health care providers." This provision would require the MDHE to perform an audit function to track the use of funds distributed to institutions from the Public Higher Education Account created by the petition. The MDHE does not currently perform any such function in relation to funds appropriated to institutions and would be required to hire one full-time employee (FTE) with related experience to fulfill MDHE's duties required by the provision.

With an annual salary of \$50,000 and a fringe-benefit package estimated at 52.34% or \$26,170, the MDHE estimates the total cost of the FTE to be \$76,170 in the first full fiscal year in which the provisions of the initiative petition are in effect. The negative fiscal impact of the initiative petition on the MDHE would subsequently increase in years in which staff salary raises were implemented by the state or the costs of fringe-benefit packages increased in a proportion equal to those cost increases.

Officials from the **Department of Health and Senior Services (DHSS)** indicated:

This initiative petition is similar to IP 11-106. The minor differences do not result in any changes in the fiscal impact submitted in response to IP 11-106 for the DHSS.

Comments:

The fiscal impact for IP 12-03 is the same as that submitted for IP 11-106 for DHSS. At the discretion of the Missouri Healthy Families Commission, DHSS assumes the department may play a role in administering tobacco quit assistance and comprehensive tobacco control efforts. The Missouri Healthy Families Commission would be assigned to DHSS for budgeting and reporting functions only. DHSS would be required to fund the activities of the Commission including the quarterly meetings. At this time, it is not possible to estimate the activities the department will be involved with and therefore assumes \$6,480 (9 members X \$180 per member/meeting X 4 meetings) to unknown costs for the proposed legislation. DHSS assumes all costs will be offset with revenue generated by the language resulting in a \$0 net fiscal impact. DHSS defers to the Office of Administration regarding the statewide fiscal impact to this proposed legislation.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition is no impact to the department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated increased costs would be \$78,499 in fiscal year 2013, \$40,153 in fiscal year 2014, and \$40,570 in fiscal year 2015.

Based upon FY11 sales of 547 million stamps the tax increase of 3.65 cents per cigarette (73 cents per pack of 20) would raise approximately \$399 million per calendar year. Currently, the tax collected on roll your own tobacco is not reported separately from other tobacco products. The department is not able to estimate what the impact the tax increase would have on these products. Additionally, some portion of the \$158.7 million reported as the manufacturers invoice price for all other tobacco products sales during FY11 would include roll your own tobacco. However, if you based the tax increase on other tobacco products on the full amount reported in FY11, it would increase total collections by \$23.8 million dollars per year.

Under current law, wholesales receive discounts equal to three percent of the face value of each cigarette stamp. Based upon the FY11 sales of 547 million stamps, wholesalers received discounts of approximately \$2,789,700. Under the proposed legislation they would have received only \$2,735,000 in discounts if the tax rate did not increase. However, if the tax rate increases by \$.73, wholesalers would have received \$14,769,000. Under the proposed legislation, they would receive approximately \$12 million less in allowance.

The department will have programming expenses of \$40,068 to update and create tobacco processing systems.

The department will need one Revenue Processing Technician to perform additional duties required by Section 196.1029.

Comments

This initiative would go before voters on November 6, 2012. If passed, it would go into effect January 1, 2013. This would give Taxation approximately 45 days to implement. The Department of Revenue suggests the effective date be changed to either July 1, 2013 or January 1, 2014. This would allow time to develop new forms, communicate this to licensees, and to complete any programming needed. This would also allow additional time for the department to request bids on a new stamp design, if necessary.

149.011(2) - By increasing the weight from 3 lbs to 4 lbs per thousand and including language that in can be wrapped in anything, this definition of cigarette would appear to include "little cigars." This would require stamping of packs of little cigars. It is unclear if little cigars would also fall under the MSA requirements and the Fire Safety

requirements. In addition the definition of a cigarette under section 320.350, fire safety statutes, would be in conflict with the definition of cigarette under this legislation.

149.011(14) - The department requests clarification of what products are defined as "other product containing tobacco intended or expected to be consumed without being combusted."

149.018.4 (1) – Section 149.018.4-The department recommends removing the one and one half of one percent limit on the cost of collection and indicating the cost of collection shall be equal to the actual costs incurred by the department. At a minimum, the cap should be increased to three percent of the moneys collected.

149.018.4(3) - Section 149.018.4 - The department requests clarification of how it is to determine if the increase in tax caused a decrease in the consumption of cigarettes. Over the past several years there has been a decline in the number of stamps sold which could be attributed to factors such as discontinued use of cigarettes due to health related issues or to the recent increase of the federal cigarette tax. There has been a slight increase in the amount of tax collected on other tobacco products, which may be attributed to public use of other tobacco products such as pipe tobacco, used as roll you own tobacco or purchasing little cigars which are similar in appearance to cigarettes but taxed at a lower federal tax rate. Each year the contributing factors to any decrease in the amounts deposited to the accounts could change and they may not be easily identified. It might be beneficial to add language that would require DOR to consult with the Department of Health in making the determination on what to attribute any decreases to.

149.018.5 - The department requests clarification of who is to make the distributions to the Tobacco Use Prevention and Quit Assistance Account, to the Public Education Account and the Public Higher Education Account.

149.018.10 - Imposes the taxes on existing inventory of any person licensed under Chapter 149. Retailers are not required to be licensed under Chapter 149. It is unclear if licensees who also operate retail establishments will be required to remit the tax increase on the product held by their retail operation. This legislation would appear to single out those retailers who happen to have a license and would not be inclusive of all other retailers. By only targeting those licensed under Chapter 149 for payment of the tax increase of in stock inventory, it opens up the possibility for stockpiling by other large retailers and allowing them to reap a windfall after the tax increase takes effect. In addition stockpiling of cigarettes could result in stamp shortages by DOR.

196.1023.4 –This appears to requires non-participating manufacturers to post a bond if its cigarettes were not sold in the state during any one of the four preceding calendar quarters, if it or any person affiliated with it failed to make a full and timely escrow deposit or if it or any person affiliated with it was removed from any states directory during any of the five preceding calendar years. This will require continual research to determine if any non-participating manufacturers meet the conditions for a bond. Quarterly escrow deposits must be made within 30 days after the end of each quarter

under section 196.1003.1(4). This legislation appears to require a non-participating manufacturer to post a bond 10 days before the start to the next quarter in order to be listed in the directory for the next quarter. These two requirements appear to be in conflict with each other. In addition the department does not receive information from wholesalers regarding units sold until the 20th of each month. The department will not be able to determine if a bond is required 10 days before a new quarter begins because not all of the information regarding sales will be received more than 10 days before the start of the quarter.

The department recommends adding language to allow the department to promulgate rules in order to carry out the provisions of sections 149.011 to 149.215 or at least to cover the new section 149.018.

Officials from the **Department of Social Services** indicated:

This initiative petition seeks to impose an additional tax on tobacco products. The additional tax is 3.65¢ per cigarette, 25% of the manufacturer's invoice price for roll-your-own tobacco, and 15% of the manufacturer's invoice price for all other tobacco products. The tax is effective January 1, 2013.

The state may retain up to 1.5% of the total collected to cover the additional actual costs incurred by the state in collecting and enforcing the new taxes.

The petition creates the Health and Education Trust Fund for deposit of the remaining additional taxes collected. Money in the fund shall be credited to three separate accounts:

- Tobacco Use Prevention and Quit Assistance Account (20%);
- Public Education Account (50%); and
- Public Higher Education Account (30%).

The General Assembly may appropriate up to 1/5th of 1% of the Tobacco Use Prevention and Quit Assistance Account to the Attorney General and other state agencies for the purpose of enforcing and administering the Master Settlement Agreement.

Tax proceeds can be used only for the purposes stated in the initiative.

On an annual basis, the Director of the Department of Revenue must determine whether the new taxes imposed have directly caused a decrease in tobacco consumption, thereby causing a reduction in the amount of moneys collected and deposited into the Fair Share Fund, the Health Initiatives Fund (HIF), or the state school moneys fund. If this is the case, the Department of Revenue must transfer from the Health and Education Trust Fund to these three funds an amount equal to the amount of money that were not collected and deposited into those funds because of the taxes imposed by this initiative. Transfers are

limited to 3% of the total moneys collected from the additional tobacco tax imposed by this initiative.

The department currently receives money from the Health Initiatives Fund. Theoretically, the Health Initiatives Fund should be made whole by this transfer and there would be no fiscal impact to their department.

The proposal also creates the Missouri Healthy Families Commission to administer the activities funded by the Tobacco Use Prevention and Quit Assistance Account. The department may designate a non-voting, ex officio representative to the Board of Directors of the Commission. They do not expect a significant fiscal impact due to this provision.

The balance of the proposal concerns tobacco stamps affixed to tobacco products and so-called non-participating manufacturers. These provisions have no impact the their department.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there is no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal imposes an additional tax of 3.65¢ per cigarette (73¢ per pack of 20); levies an additional 15% tax on other tobacco products (OTP); levies an additional tax of 25% on newly-defined "roll-your-own" products; changes the compensation rate for wholesalers; and requires non-participating manufacturers to post a bond. The changes are effective January 1, 2013.

New monies are deposited into the Health and Education Trust Fund and allocated as follows:

- 1) Tobacco Use Prevention and Quit Assistance Account (20%);
- 2) Public Education Account (50%);
- 3) Public Higher Education Account (30%).

The Missouri Healthy Families Commission is created to administer the Tobacco Use Prevention and Quit Assistance Account. The Commission is assigned to the Department of Health and Senior Services for budget and reporting purposes. The nine member commission is appointed by the Governor with advice and consent of the Senate.

The Public Education Account is appropriated to DESE for distribution to school districts with at least 25% of the money to be used in direct classroom expenditures.

The Public Higher Education Account is distributed to public colleges and universities in proportion to the total base operating appropriations for all public colleges and universities in the preceding fiscal year.

The proposed amendment to the Revised Statutes of Missouri should not result in additional costs or savings to the Office of Administration should it be approved by the voters. However, there is a statewide impact on revenues to the state.

The Division of Budget and Planning (BAP) calculates the impact of the cigarette tax increase by estimating the quantity of packs currently sold, applying the midpoint formula for elasticity to estimate the new quantity of packs, then calculating increased revenues.

BAP notes the following:

1. BAP estimates the current retail price of one cigarette pack is \$4.50 = \$4.33 price + \$0.17 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. The website "Tobacco Free Kids" estimates the average cigarette tax as \$1.46 per pack, as of June 28, 2011.¹ A tax of \$0.90 (the proposed \$0.73 plus the existing tax of \$0.17) would be below this average, but would exceed the tax rate of four neighboring states.
3. State cigarette taxes in FY11 totaled \$89,965,910, according to the SAM II Data Warehouse.²
4. "Elasticity" is the ratio of the change in quantity sold to the change in price. The CDC estimates the cigarette price elasticity as -0.4,³ which suggests a 4% drop in sales for each 10% increase in cost. However, research by Goolsbee (2004)⁴ demonstrates the elasticity for state cigarette taxes likely exceeds -1.2, and could exceed -2.0, depending on internet access.
5. Given the above information, BAP estimates the elasticity at -0.8 for this analysis.
6. This analysis uses the midpoint-method to estimate the new quantity (Q2) of cigarette packs taxed as a result of the tax increase:
$$E = \{(Q2-Q1) / \text{AVG}(Q2,Q1)\} / \{(P2-P1) / \text{AVG}(P2,P1)\}$$

Based on this information, BAP estimates increased cigarette tax revenues of \$332.4M annually (see Table 1).

Similarly for the increased OTP tax:

¹ <http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf>, accessed November 22, 2011.

² Data warehouse accessed September 21, 2011

³ http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm, accessed September 21, 2011.

⁴ <http://faculty.chicagobooth.edu/workshops/AppliedEcon/archive/pdf/goolsbee.pdf>, accessed September 21, 2011

1. BAP estimates the current retail price of one “unit” of tobacco is \$4.50 = \$4.09 + \$0.41 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. BAP estimates the elasticity as -0.8, as above, and uses the midpoint formula, as above.

Based on this information, BAP estimates increased OTP taxes of \$19.5M annually (see Table 2).

BAP notes that currently, "roll-your-own" products are taxed as an OTP product. However, BAP does not have data on what proportion of OTP sales would qualify as "roll-your-own", and thus for the higher proposed tax rate. Therefore, there will also be an additional unknown increase in revenues resulting from this source.

The proposal directs the DOR to estimate the decreased consumption of cigarettes and OTP as a result of this proposal, and then to hold existing dedicated funds harmless. This analysis estimates a decrease of 60M cigarette packs. At 17¢ per-pack, this implies the DOR would need to transfer an estimated \$10.2M of the new cigarette revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 10.0M. Similarly, this analysis estimates a decrease of 3.7M "units" of OTP sales. At an estimated tax rate of 41¢, this suggests a transfer of \$1.5M of the new OTP revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 0.6M.

BAP defers to DOR for impacts of the changes to the compensation rate and bond postings; and to the Attorney General’s Office on the impacts in changes related to the Master Settlement Agreement.

Table 1.

Cigarettes	Current (FY11)	New
Tax (per pack)	\$0.17	\$0.90
Estimated Cost Per Pack	\$4.50	\$5.23

Estimated Packs with Tax Increase, using Midpoint Formula

FY11 Revenues	\$89,965,910
Q1	529,211,235
P1	\$4.50
P2	\$5.23
Estimated Elasticity (see notes)	-0.8
Q2	469,281,167
Total Revenues	\$422,353,050
Increased Revenues	\$332,387,140

Table 2.

OTP	Current (FY11)	New
Tax (per unit)	10%	25%
Estimated Retail Cost Per Unit	\$4.50	\$5.11
Estimated Wholesale Cost Per Unit	\$4.09	
Estimated Units with Tax Increase, using Midpoint Formula		
FY11 Revenues		\$15,551,490
Estimated Current Wholesales		\$155,514,900
Q1		38,023,203
P1		\$4.50
P2		\$5.11
Estimated Elasticity (see notes)		-0.8
Q2		34,328,641
Estimated New Wholesales		\$140,404,142
Total Revenues		\$35,101,036
Increased Revenues		\$19,549,546

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of their city but authorize state taxes and state activities, therefore, they have no fiscal impact on the city.

Officials from the **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, if this results in an increase in general revenue for the State of Missouri, there may be a positive fiscal impact on their college since the majority of their state appropriations come from general revenue funds.

Officials from **Metropolitan Community College** indicated this legislation would have a positive, but unknown, fiscal impact on their college.

The **State Auditor's office** estimated annual audit costs required in the proposal would be up to an estimated \$40,000.

Robert L. Hess, II provided information as a proponent of this initiative petition.

As set forth in the enclosed analysis, tobacco use causes approximately \$2.13 billion in annual health care expenditures in Missouri. Smoking specifically causes approximately \$532 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by \$0.73 per pack, would increase the tax on roll-your-own tobacco by 25%, and would increase the tax on other tobacco products by 15%. Those tax increases would raise over \$283 million in new state revenue to help adults stop smoking, to keep kids from starting smoking, and to support public education and higher education.

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 12% in Missouri and keep 45,700 kids in Missouri from becoming addicted adult smokers and help 28,200 current adult smokers quit. Twenty two thousand (22,000) Missouri residents would be saved from premature smoking-caused deaths.

There would also be a fiscal benefit to the citizens of the state from the improved public health. In the first five years, there would be more than \$30 million in savings from fewer smoking-related pregnancies, births, heart attacks and strokes. The long term savings would be approximately a billion dollars.

**NEW REVENUES, PUBLIC HEALTH BENEFITS & COST SAVINGS
FROM A 73-CENT CIGARETTE TAX INCREASE IN MISSOURI**

Current state cigarette tax: 17 cents per pack (51st among all states)
Smoking-caused costs in Missouri: \$7.61 per pack

Annual healthcare expenditures in Missouri directly caused by tobacco use: \$2.13 billion
Smoking-caused state Medicaid program spending each year: \$532.0 million

New Annual Revenue from Increasing the Cigarette Tax Rate by 73 Cents Per Pack: \$265.7 million

Additional Revenue from Raising OTP Rates to 25% Manufacturer's Price: \$17.3 million

New Annual Revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue if it fails to apply the rate increase to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date.

<u>Projected Public Health Benefits from the Cigarette Tax Rate Increase</u>	
<i>Percent decrease in youth smoking:</i>	12.0%
<i>Kids in Missouri kept from becoming addicted adult smokers:</i>	45,700
<i>Current adult smokers in the state who would quit:</i>	28,200
<i>Smoking-affected births avoided over next five years:</i>	7,950
<i>Missouri residents saved from premature smoking-caused death:</i>	22,000
<i>5-year health savings from fewer smoking-affected pregnancies & births:</i>	\$13.5 million
<i>5-year health savings from fewer smoking-caused heart attacks & strokes:</i>	\$17.4 million
<i>Long-term health savings in the state from adult & youth smoking declines:</i>	\$1.0 billion

- Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).
- Raising state tax rates on other tobacco products (OTPs) to parallel the increased cigarette tax rate will bring the state more revenues, public health benefits, and cost savings (and promote tax equity). With unequal rates, the state loses revenue each time a cigarette smoker switches to cigars, RYO, or smokeless. To parallel the new \$0.90 per pack cigarette tax, the state's new OTP tax rate should be at least 30% of wholesale

price with minimum tax rates for each major OTP category linked to the state cigarette tax rate on a per-package or per-dose basis.

Needed State Efforts to Protect State Tobacco Tax Revenues

Having each of the following measures in place will maintain and increase state tobacco tax revenues by closing loopholes, blocking contraband trafficking, and preventing tax evasion.

State tax rate on RYO cigarettes equals the state tax rate on regular cigarettes	Yes
State tax rates on other tobacco products match the state cigarette tax rate	Yes
State definitions of "cigarette" block cigarettes from wrongfully qualifying as "cigars"	No
State definitions of "tobacco product" reach all tobacco products	No
Loopholes for the new generation of smokeless products (snus, tablets, etc.) closed	No
Minimum taxes on all tobacco products to block tax evasion and promote tax equity	No
"High-tech" tax stamps to stop counterfeiting and other smuggling and tax evasion	No
Retailers lose license if convicted of contraband trafficking	Yes
Street sales and mobile sales of cigarettes and other tobacco products prohibited	Yes
Non-Tobacco nicotine products without FDA approval banned	No

More information available at

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

Campaign for Tobacco-Free Kids 10.07.10 / Ann Boonn, October 26, 2011

Explanations & Notes

Projections are based on research findings that each 10% cigarette price increase reduces youth smoking by 6.5%, adult rates by 2%, and total consumption by 4% (adjusted down to account for tax evasion effects). Revenues still increase because the higher tax rate per pack will bring in more new revenue than is lost from the tax-related drop in total pack sales.

The projections incorporate the effect of both ongoing background smoking declines and the continued impact of the 61.66-cent federal cigarette tax increase (effective April 1, 2009) on prices, smoking levels and pack sales.

These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and lower net new revenues) from possible new smuggling and tax evasion after the rate increase and from fewer sales to smokers or smugglers from other states. For ways that the state can protect and increase its tobacco tax revenues and prevent and reduce contraband trafficking and other tobacco tax evasion, see the Campaign for Tobacco-Free Kids factsheet, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over the lifetimes of persons who stop smoking or never start because of the rate

increase. All cost and savings in 2004 dollars. Projections will be updated when new relevant data or research becomes available.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, <http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf>.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>.

For more on sources and calculations, see
<http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf>

Additional Information on Tobacco Product Tax Increases

Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases, <http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf>.

State Cigarette Excise Tax Rates & Rankings,
<http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf>.

Top Combined State-Local Cigarette Tax Rates (State plus County plus City),
<http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

State Cigarette Tax Increases Benefit Lower-Income Smokers and Families,
<http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf>.

The Best Way to Tax Smokeless Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf>.

The Problem with Roll-Your-Own (RYO) Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0336.pdf>.

How to Make State Cigar Tax Rates Fair and Effective,
<http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf>.

State Benefits from Increasing Smokeless Tobacco Tax Rates,
<http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf>.

The Case for High-Tech Cigarette Tax Stamps,
<http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf>.

State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>

For questions or model legislation, please contact factsheets@tobaccofreekids.org.

For all TFK factsheets on tobacco tax increases, see

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, the Missouri Senate, Cass County, Cole County, Greene County, Jasper County, St. Louis County, the City of Cape Girardeau, the City of Mexico, the City of St. Joseph, the City of St. Louis, Cape Girardeau 63 School District, Hannibal 60 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

Estimated additional revenue to state government is \$283 million to \$423 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown. Escrow fund changes may result in an unknown increase in future state revenue.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-04)**

Subject

Initiative petition from Robert Hess regarding a proposed amendment to Chapters 149 and 196 of the Revised Statutes of Missouri. (Received January 10, 2012)

Date

January 30, 2012

Description

This proposal would amend Chapters 149 and 196 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Cass County**, **Cole County**, **Greene County**, **Jasper County**, **St. Louis County**, the **City of Cape Girardeau**, the **City of Kansas City**, the **City of Mexico**, the **City of St. Joseph**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri** and **St. Louis Community College**.

Robert L. Hess, II provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated:

The proposal would simplify one issue related to enforcement of the escrow provisions. Due to the complexity of the current litigation related to the tobacco settlement; however, they do not expect the proposal to immediately result in savings. After litigation concludes, they assume the proposal would result in a savings of .5 AAG II, (\$47,500) resulting in a savings of \$39,963 in FY13 to the General Revenue Fund.

They also note that the amendment to section 196.1003 has the potential to result in an increase to the amount of payments received by Missouri from the Master Settlement Agreement (MSA). Because the amount of the payments is calculated based on variables such as the amount of sales in a given year, they cannot specifically predict the dollar amount.

Officials from the **Department of Agriculture** indicated that there was no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

This proposal will present no costs to the state (none that will not be covered by the increased revenue); but has the potential to add significant funding to Missouri public schools.

According to The Campaign for Tobacco-Free Kids in Washington estimates, this proposal which also would raise taxes on other tobacco products besides cigarettes, would generate about \$283 million annually for the state. The proposal would allot half of that money to elementary and secondary education, 30 percent to colleges and universities and 20 percent to programs intended to prevent people from using tobacco or help them quit doing so.

A 50% allocation to K-12 education would mean an additional \$141.5 million of funding (based on the estimate of The Campaign for Tobacco-Free Kids in Washington). Since it is currently projected that funding for the Foundation Program is approximately \$292 million deficient, these funds could be put to good use.

Officials from the **Department of Higher Education** indicated:

This version of initiative petition 12-04 is estimated to cost their department approximately \$76,170 in the first full fiscal year in which its provisions are in effect.

Section 149.018.8 contains a provision which reads as follows: "The department of higher education shall ensure that at least twenty-five percent of the moneys distributed from the Public Higher Education Account are used for programs and initiatives related to the education, training, and development of future caregivers including physicians, dentists, optometrists, pharmacists, nurses, and other health care providers." This provision would require the MDHE to perform an audit function to track the use of funds distributed to institutions from the Public Higher Education Account created by the petition. The MDHE does not currently perform any such function in relation to funds appropriated to institutions and would be required to hire one full-time employee (FTE) with related experience to fulfill MDHE's duties required by the provision.

With an annual salary of \$50,000 and a fringe-benefit package estimated at 52.34% or \$26,170, the MDHE estimates the total cost of the FTE to be \$76,170 in the first full fiscal year in which the provisions of the initiative petition are in effect. The negative fiscal impact of the initiative petition on the MDHE would subsequently increase in years in which staff salary raises were implemented by the state or the costs of fringe-benefit packages increased in a proportion equal to those cost increases.

Officials from the **Department of Health and Senior Services (DHSS)** indicated:

This initiative petition is similar to IP 11-106. The minor differences do not result in any changes in the fiscal impact submitted in response to IP 11-106 for the DHSS.

Comments:

The fiscal impact for IP 12-04 is the same as that submitted for IP 11-106 for DHSS. At the discretion of the Missouri Healthy Families Commission, DHSS assumes the department may play a role in administering tobacco quit assistance and comprehensive tobacco control efforts. The Missouri Healthy Families Commission would be assigned to DHSS for budgeting and reporting functions only. DHSS would be required to fund the activities of the Commission including the quarterly meetings. At this time, it is not possible to estimate the activities the department will be involved with and therefore assumes \$6,480 (9 members X \$180 per member/meeting X 4 meetings) to unknown costs for the proposed legislation. DHSS assumes all costs will be offset with revenue generated by the language resulting in a \$0 net fiscal impact. DHSS defers to the Office of Administration regarding the statewide fiscal impact to this proposed legislation.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition is no impact to the department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated increased costs would be \$78,499 in fiscal year 2013, \$40,153 in fiscal year 2014, and \$40,570 in fiscal year 2015.

Based upon FY11 sales of 547 million stamps the tax increase of 3.65 cents per cigarette (73 cents per pack of 20) would raise approximately \$399 million per calendar year. Currently, the tax collected on roll your own tobacco is not reported separately from other tobacco products. The department is not able to estimate what the impact the tax increase would have on these products. Additionally, some portion of the \$158.7 million reported as the manufacturers invoice price for all other tobacco products sales during FY11 would include roll your own tobacco. However, if you based the tax increase on other tobacco products on the full amount reported in FY11, it would increase total collections by \$23.8 million dollars per year.

Under current law, wholesales receive discounts equal to three percent of the face value of each cigarette stamp. Based upon the FY11 sales of 547 million stamps, wholesalers received discounts of approximately \$2,789,700. Under the proposed legislation they would have received only \$2,735,000 in discounts if the tax rate did not increase. However, if the tax rate increases by \$.73, wholesalers would have received \$14,769,000. Under the proposed legislation, they would receive approximately \$12 million less in allowance.

The department will have programming expenses of \$40,068 to update and create tobacco processing systems.

The department will need one Revenue Processing Technician to perform additional duties required by Section 196.1029.

Comments

This initiative would go before voters on November 6, 2012. If passed, it would go into effect January 1, 2013. This would give Taxation approximately 45 days to implement. The Department of Revenue suggests the effective date be changed to either July 1, 2013 or January 1, 2014. This would allow time to develop new forms, communicate this to licensees, and to complete any programming needed. This would also allow additional time for the department to request bids on a new stamp design, if necessary.

149.011(2) - By increasing the weight from 3 lbs to 4 lbs per thousand and including language that in can be wrapped in anything, this definition of cigarette would appear to include "little cigars." This would require stamping of packs of little cigars. It is unclear if little cigars would also fall under the MSA requirements and the Fire Safety

requirements. In addition the definition of a cigarette under section 320.350, fire safety statutes, would be in conflict with the definition of cigarette under this legislation.

149.011(14) - The department requests clarification of what products are defined as "other product containing tobacco intended or expected to be consumed without being combusted."

149.018.4 (1) – Section 149.018.4-The department recommends removing the one and one half of one percent limit on the cost of collection and indicating the cost of collection shall be equal to the actual costs incurred by the department. At a minimum, the cap should be increased to three percent of the moneys collected.

149.018.4(3) - Section 149.018.4 - The department requests clarification of how it is to determine if the increase in tax caused a decrease in the consumption of cigarettes. Over the past several years there has been a decline in the number of stamps sold which could be attributed to factors such as discontinued use of cigarettes due to health related issues or to the recent increase of the federal cigarette tax. There has been a slight increase in the amount of tax collected on other tobacco products, which may be attributed to public use of other tobacco products such as pipe tobacco, used as roll you own tobacco or purchasing little cigars which are similar in appearance to cigarettes but taxed at a lower federal tax rate. Each year the contributing factors to any decrease in the amounts deposited to the accounts could change and they may not be easily identified. It might be beneficial to add language that would require DOR to consult with the Department of Health in making the determination on what to attribute any decreases to.

149.018.5 - The department requests clarification of who is to make the distributions to the Tobacco Use Prevention and Quit Assistance Account, to the Public Education Account and the Public Higher Education Account.

149.018.10 - Imposes the taxes on existing inventory of any person licensed under Chapter 149. Retailers are not required to be licensed under Chapter 149. It is unclear if licensees who also operate retail establishments will be required to remit the tax increase on the product held by their retail operation. This legislation would appear to single out those retailers who happen to have a license and would not be inclusive of all other retailers. By only targeting those licensed under Chapter 149 for payment of the tax increase of in stock inventory, it opens up the possibility for stockpiling by other large retailers and allowing them to reap a windfall after the tax increase takes effect. In addition stockpiling of cigarettes could result in stamp shortages by DOR.

196.1023.4 –This appears to requires non-participating manufacturers to post a bond if its cigarettes were not sold in the state during any one of the four preceding calendar quarters, if it or any person affiliated with it failed to make a full and timely escrow deposit or if it or any person affiliated with it was removed from any states directory during any of the five preceding calendar years. This will require continual research to determine if any non-participating manufacturers meet the conditions for a bond. Quarterly escrow deposits must be made within 30 days after the end of each quarter

under section 196.1003.1(4). This legislation appears to require a non-participating manufacturer to post a bond 10 days before the start to the next quarter in order to be listed in the directory for the next quarter. These two requirements appear to be in conflict with each other. In addition the department does not receive information from wholesalers regarding units sold until the 20th of each month. The department will not be able to determine if a bond is required 10 days before a new quarter begins because not all of the information regarding sales will be received more than 10 days before the start of the quarter.

The department recommends adding language to allow the department to promulgate rules in order to carry out the provisions of sections 149.011 to 149.215 or at least to cover the new section 149.018.

Officials from the **Department of Social Services** indicated:

This initiative petition seeks to impose an additional tax on tobacco products. The additional tax is 3.65¢ per cigarette, 25% of the manufacturer's invoice price for roll-your-own tobacco, and 15% of the manufacturer's invoice price for all other tobacco products. The tax is effective January 1, 2013.

The state may retain up to 1.5% of the total collected to cover the additional actual costs incurred by the state in collecting and enforcing the new taxes.

The petition creates the Health and Education Trust Fund for deposit of the remaining additional taxes collected. Money in the fund shall be credited to three separate accounts:

- Tobacco Use Prevention and Quit Assistance Account (20%);
- Public Education Account (50%); and
- Public Higher Education Account (30%).

The General Assembly may appropriate up to 1/5th of 1% of the Tobacco Use Prevention and Quit Assistance Account to the Attorney General and other state agencies for the purpose of enforcing and administering the Master Settlement Agreement.

Tax proceeds can be used only for the purposes stated in the initiative.

On an annual basis, the Director of the Department of Revenue must determine whether the new taxes imposed have directly caused a decrease in tobacco consumption, thereby causing a reduction in the amount of moneys collected and deposited into the Fair Share Fund, the Health Initiatives Fund (HIF), or the state school moneys fund. If this is the case, the Department of Revenue must transfer from the Health and Education Trust Fund to these three funds an amount equal to the amount of money that were not collected and deposited into those funds because of the taxes imposed by this initiative. Transfers are

limited to 3% of the total moneys collected from the additional tobacco tax imposed by this initiative.

The department currently receives money from the Health Initiatives Fund. Theoretically, the Health Initiatives Fund should be made whole by this transfer and there would be no fiscal impact to their department.

The proposal also creates the Missouri Healthy Families Commission to administer the activities funded by the Tobacco Use Prevention and Quit Assistance Account. The department may designate a non-voting, ex officio representative to the Board of Directors of the Commission. They do not expect a significant fiscal impact due to this provision.

The balance of the proposal concerns tobacco stamps affixed to tobacco products and so-called non-participating manufacturers. These provisions have no impact the their department.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there is no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal imposes an additional tax of 3.65¢ per cigarette (73¢ per pack of 20); levies an additional 15% tax on other tobacco products (OTP); levies an additional tax of 25% on newly-defined "roll-your-own" products; changes the compensation rate for wholesalers; and requires non-participating manufacturers to post a bond. The changes are effective January 1, 2013.

New monies are deposited into the Health and Education Trust Fund and allocated as follows:

- 1) Tobacco Use Prevention and Quit Assistance Account (20%);
- 2) Public Education Account (50%);
- 3) Public Higher Education Account (30%).

The Missouri Healthy Families Commission is created to administer the Tobacco Use Prevention and Quit Assistance Account. The Commission is assigned to the Department of Health and Senior Services for budget and reporting purposes. The nine member commission is appointed by the Governor with advice and consent of the Senate.

The Public Education Account is appropriated to DESE for distribution to school districts with at least 25% of the money to be used in direct classroom expenditures.

The Public Higher Education Account is distributed to public colleges and universities in proportion to the total base operating appropriations for all public colleges and universities in the preceding fiscal year.

The proposed amendment to the Revised Statutes of Missouri should not result in additional costs or savings to the Office of Administration should it be approved by the voters. However, there is a statewide impact on revenues to the state.

The Division of Budget and Planning (BAP) calculates the impact of the cigarette tax increase by estimating the quantity of packs currently sold, applying the midpoint formula for elasticity to estimate the new quantity of packs, then calculating increased revenues.

BAP notes the following:

1. BAP estimates the current retail price of one cigarette pack is \$4.50 = \$4.33 price + \$0.17 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. The website "Tobacco Free Kids" estimates the average cigarette tax as \$1.46 per pack, as of June 28, 2011.¹ A tax of \$0.90 (the proposed \$0.73 plus the existing tax of \$0.17) would be below this average, but would exceed the tax rate of four neighboring states.
3. State cigarette taxes in FY11 totaled \$89,965,910, according to the SAM II Data Warehouse.²
4. "Elasticity" is the ratio of the change in quantity sold to the change in price. The CDC estimates the cigarette price elasticity as -0.4,³ which suggests a 4% drop in sales for each 10% increase in cost. However, research by Goolsbee (2004)⁴ demonstrates the elasticity for state cigarette taxes likely exceeds -1.2, and could exceed -2.0, depending on internet access.
5. Given the above information, BAP estimates the elasticity at -0.8 for this analysis.
6. This analysis uses the midpoint-method to estimate the new quantity (Q2) of cigarette packs taxed as a result of the tax increase:
$$E = \{(Q2-Q1) / \text{AVG}(Q2,Q1)\} / \{(P2-P1) / \text{AVG}(P2,P1)\}$$

Based on this information, BAP estimates increased cigarette tax revenues of \$332.4M annually (see Table 1).

Similarly for the increased OTP tax:

¹ <http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf>, accessed November 22, 2011.

² Data warehouse accessed September 21, 2011

³ http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm, accessed September 21, 2011.

⁴ <http://faculty.chicagobooth.edu/workshops/AppliedEcon/archive/pdf/goolsbee.pdf>, accessed September 21, 2011

1. BAP estimates the current retail price of one “unit” of tobacco is \$4.50 = \$4.09 + \$0.41 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. BAP estimates the elasticity as -0.8, as above, and uses the midpoint formula, as above.

Based on this information, BAP estimates increased OTP taxes of \$19.5M annually (see Table 2).

BAP notes that currently, "roll-your-own" products are taxed as an OTP product. However, BAP does not have data on what proportion of OTP sales would qualify as "roll-your-own", and thus for the higher proposed tax rate. Therefore, there will also be an additional unknown increase in revenues resulting from this source.

The proposal directs the DOR to estimate the decreased consumption of cigarettes and OTP as a result of this proposal, and then to hold existing dedicated funds harmless. This analysis estimates a decrease of 60M cigarette packs. At 17¢ per-pack, this implies the DOR would need to transfer an estimated \$10.2M of the new cigarette revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 10.0M. Similarly, this analysis estimates a decrease of 3.7M "units" of OTP sales. At an estimated tax rate of 41¢, this suggests a transfer of \$1.5M of the new OTP revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 0.6M.

BAP defers to DOR for impacts of the changes to the compensation rate and bond postings; and to the Attorney General’s Office on the impacts in changes related to the Master Settlement Agreement.

Table 1.

Cigarettes	Current (FY11)	New
Tax (per pack)	\$0.17	\$0.90
Estimated Cost Per Pack	\$4.50	\$5.23

Estimated Packs with Tax Increase, using Midpoint Formula

FY11 Revenues	\$89,965,910
Q1	529,211,235
P1	\$4.50
P2	\$5.23
Estimated Elasticity (see notes)	-0.8
Q2	469,281,167
Total Revenues	\$422,353,050
Increased Revenues	\$332,387,140

Table 2.

OTP	Current (FY11)	New
Tax (per unit)	10%	25%
Estimated Retail Cost Per Unit	\$4.50	\$5.11
Estimated Wholesale Cost Per Unit	\$4.09	
Estimated Units with Tax Increase, using Midpoint Formula		
FY11 Revenues		\$15,551,490
Estimated Current Wholesales		\$155,514,900
Q1		38,023,203
P1		\$4.50
P2		\$5.11
Estimated Elasticity (see notes)		-0.8
Q2		34,328,641
Estimated New Wholesales		\$140,404,142
Total Revenues		\$35,101,036
Increased Revenues		\$19,549,546

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of their city but authorize state taxes and state activities, therefore, they have no fiscal impact on the city.

Officials from the **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, if this results in an increase in general revenue for the State of Missouri, there may be a positive fiscal impact on their college since the majority of their state appropriations come from general revenue funds.

Officials from **Metropolitan Community College** indicated this legislation would have a positive, but unknown, fiscal impact on their college.

The **State Auditor's office** estimated annual audit costs required in the proposal would be up to an estimated \$40,000.

Robert L. Hess, II provided information as a proponent of this initiative petition.

As set forth in the enclosed analysis, tobacco use causes approximately \$2.13 billion in annual health care expenditures in Missouri. Smoking specifically causes approximately \$532 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by \$0.73 per pack, would increase the tax on roll-your-own tobacco by 25%, and would increase the tax on other tobacco products by 15%. Those tax increases would raise over \$283 million in new state revenue to help adults stop smoking, to keep kids from starting smoking, and to support public education and higher education.

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 12% in Missouri and keep 45,700 kids in Missouri from becoming addicted adult smokers and help 28,200 current adult smokers quit. Twenty two thousand (22,000) Missouri residents would be saved from premature smoking-caused deaths.

There would also be a fiscal benefit to the citizens of the state from the improved public health. In the first five years, there would be more than \$30 million in savings from fewer smoking-related pregnancies, births, heart attacks and strokes. The long term savings would be approximately a billion dollars.

**NEW REVENUES, PUBLIC HEALTH BENEFITS & COST SAVINGS
FROM A 73-CENT CIGARETTE TAX INCREASE IN MISSOURI**

Current state cigarette tax: 17 cents per pack (51st among all states)
Smoking-caused costs in Missouri: \$7.61 per pack

Annual healthcare expenditures in Missouri directly caused by tobacco use: \$2.13 billion
Smoking-caused state Medicaid program spending each year: \$532.0 million

New Annual Revenue from Increasing the Cigarette Tax Rate by 73 Cents Per Pack: \$265.7 million

Additional Revenue from Raising OTP Rates to 25% Manufacturer's Price: \$17.3 million

New Annual Revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue if it fails to apply the rate increase to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date.

<u>Projected Public Health Benefits from the Cigarette Tax Rate Increase</u>	
<i>Percent decrease in youth smoking:</i>	12.0%
<i>Kids in Missouri kept from becoming addicted adult smokers:</i>	45,700
<i>Current adult smokers in the state who would quit:</i>	28,200
<i>Smoking-affected births avoided over next five years:</i>	7,950
<i>Missouri residents saved from premature smoking-caused death:</i>	22,000
<i>5-year health savings from fewer smoking-affected pregnancies & births:</i>	\$13.5 million
<i>5-year health savings from fewer smoking-caused heart attacks & strokes:</i>	\$17.4 million
<i>Long-term health savings in the state from adult & youth smoking declines:</i>	\$1.0 billion

- Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).
- Raising state tax rates on other tobacco products (OTPs) to parallel the increased cigarette tax rate will bring the state more revenues, public health benefits, and cost savings (and promote tax equity). With unequal rates, the state loses revenue each time a cigarette smoker switches to cigars, RYO, or smokeless. To parallel the new \$0.90 per pack cigarette tax, the state's new OTP tax rate should be at least 30% of wholesale

price with minimum tax rates for each major OTP category linked to the state cigarette tax rate on a per-package or per-dose basis.

Needed State Efforts to Protect State Tobacco Tax Revenues

Having each of the following measures in place will maintain and increase state tobacco tax revenues by closing loopholes, blocking contraband trafficking, and preventing tax evasion.

State tax rate on RYO cigarettes equals the state tax rate on regular cigarettes	Yes
State tax rates on other tobacco products match the state cigarette tax rate	Yes
State definitions of "cigarette" block cigarettes from wrongfully qualifying as "cigars"	No
State definitions of "tobacco product" reach all tobacco products	No
Loopholes for the new generation of smokeless products (snus, tablets, etc.) closed	No
Minimum taxes on all tobacco products to block tax evasion and promote tax equity	No
"High-tech" tax stamps to stop counterfeiting and other smuggling and tax evasion	No
Retailers lose license if convicted of contraband trafficking	Yes
Street sales and mobile sales of cigarettes and other tobacco products prohibited	Yes
Non-Tobacco nicotine products without FDA approval banned	No

More information available at

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

Campaign for Tobacco-Free Kids 10.07.10 / Ann Boonn, October 26, 2011

Explanations & Notes

Projections are based on research findings that each 10% cigarette price increase reduces youth smoking by 6.5%, adult rates by 2%, and total consumption by 4% (adjusted down to account for tax evasion effects). Revenues still increase because the higher tax rate per pack will bring in more new revenue than is lost from the tax-related drop in total pack sales.

The projections incorporate the effect of both ongoing background smoking declines and the continued impact of the 61.66-cent federal cigarette tax increase (effective April 1, 2009) on prices, smoking levels and pack sales.

These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and lower net new revenues) from possible new smuggling and tax evasion after the rate increase and from fewer sales to smokers or smugglers from other states. For ways that the state can protect and increase its tobacco tax revenues and prevent and reduce contraband trafficking and other tobacco tax evasion, see the Campaign for Tobacco-Free Kids factsheet, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over the lifetimes of persons who stop smoking or never start because of the rate

increase. All cost and savings in 2004 dollars. Projections will be updated when new relevant data or research becomes available.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, <http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf>.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>.

For more on sources and calculations, see
<http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf>

Additional Information on Tobacco Product Tax Increases

Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases, <http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf>.

State Cigarette Excise Tax Rates & Rankings,
<http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf>.

Top Combined State-Local Cigarette Tax Rates (State plus County plus City),
<http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

State Cigarette Tax Increases Benefit Lower-Income Smokers and Families,
<http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf>.

The Best Way to Tax Smokeless Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf>.

The Problem with Roll-Your-Own (RYO) Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0336.pdf>.

How to Make State Cigar Tax Rates Fair and Effective,
<http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf>.

State Benefits from Increasing Smokeless Tobacco Tax Rates,
<http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf>.

The Case for High-Tech Cigarette Tax Stamps,
<http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf>.

State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>

For questions or model legislation, please contact factsheets@tobaccofreekids.org.

For all TFK factsheets on tobacco tax increases, see

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, the Missouri Senate, Cass County, Cole County, Greene County, Jasper County, St. Louis County, the City of Cape Girardeau, the City of Mexico, the City of St. Joseph, the City of St. Louis, Cape Girardeau 63 School District, Hannibal 60 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

Estimated additional revenue to state government is \$283 million to \$423 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown. Escrow fund changes may result in an unknown increase in future state revenue.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-05)**

Subject

Initiative petition from Robert Hess regarding a proposed amendment to Chapters 149 and 196 of the Revised Statutes of Missouri. (Received January 10, 2012)

Date

January 30, 2012

Description

This proposal would amend Chapters 149 and 196 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Cass County**, **Cole County**, **Greene County**, **Jasper County**, **St. Louis County**, the **City of Cape Girardeau**, the **City of Kansas City**, the **City of Mexico**, the **City of St. Joseph**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri** and **St. Louis Community College**.

Robert L. Hess, II provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated:

The proposal would simplify one issue related to enforcement of the escrow provisions. Due to the complexity of the current litigation related to the tobacco settlement; however, they do not expect the proposal to immediately result in savings. After litigation concludes, they assume the proposal would result in a savings of .5 AAG II, (\$47,500) resulting in a savings of \$39,963 in FY13 to the General Revenue Fund.

They also note that the amendment to section 196.1003 has the potential to result in an increase to the amount of payments received by Missouri from the Master Settlement Agreement (MSA). Because the amount of the payments is calculated based on variables such as the amount of sales in a given year, they cannot specifically predict the dollar amount.

Officials from the **Department of Agriculture** indicated that there was no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

This proposal will present no costs to the state (none that will not be covered by the increased revenue); but has the potential to add significant funding to Missouri public schools.

According to The Campaign for Tobacco-Free Kids in Washington estimates, this proposal which also would raise taxes on other tobacco products besides cigarettes, would generate about \$283 million annually for the state. The proposal would allot half of that money to elementary and secondary education, 30 percent to colleges and universities and 20 percent to programs intended to prevent people from using tobacco or help them quit doing so.

A 50% allocation to K-12 education would mean an additional \$141.5 million of funding (based on the estimate of The Campaign for Tobacco-Free Kids in Washington). Since it is currently projected that funding for the Foundation Program is approximately \$292 million deficient, these funds could be put to good use.

Officials from the **Department of Higher Education** indicated:

This version of initiative petition 12-05 is estimated to cost their department approximately \$76,170 in the first full fiscal year in which its provisions are in effect.

Section 149.018.8 contains a provision which reads as follows: "The department of higher education shall ensure that at least twenty-five percent of the moneys distributed from the Public Higher Education Account are used for programs and initiatives related to the education, training, and development of future caregivers including physicians, dentists, optometrists, pharmacists, nurses, and other health care providers." This provision would require the MDHE to perform an audit function to track the use of funds distributed to institutions from the Public Higher Education Account created by the petition. The MDHE does not currently perform any such function in relation to funds appropriated to institutions and would be required to hire one full-time employee (FTE) with related experience to fulfill MDHE's duties required by the provision.

With an annual salary of \$50,000 and a fringe-benefit package estimated at 52.34% or \$26,170, the MDHE estimates the total cost of the FTE to be \$76,170 in the first full fiscal year in which the provisions of the initiative petition are in effect. The negative fiscal impact of the initiative petition on the MDHE would subsequently increase in years in which staff salary raises were implemented by the state or the costs of fringe-benefit packages increased in a proportion equal to those cost increases.

Officials from the **Department of Health and Senior Services (DHSS)** indicated:

This initiative petition is similar to IP 11-105. The minor differences do not result in any changes in the fiscal impact submitted in response to IP 11-105 for the DHSS.

Comments:

The fiscal impact for IP 12-05 is the same as that submitted for IP 11-105 for DHSS. At the discretion of the Missouri Healthy Families Commission, DHSS assumes the department may play a role in administering tobacco quit assistance and comprehensive tobacco control efforts. The Missouri Healthy Families Commission would be assigned to DHSS for budgeting and reporting functions only. DHSS would be required to fund the activities of the Commission including the quarterly meetings. At this time, it is not possible to estimate the activities the department will be involved with and therefore assumes \$6,480 (9 members X \$180 per member/meeting X 4 meetings) to unknown costs for the proposed legislation. DHSS assumes all costs will be offset with revenue generated by the language resulting in a \$0 net fiscal impact. DHSS defers to the Office of Administration regarding the statewide fiscal impact to this proposed legislation.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition is no impact to the department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated increased costs would be \$78,499 in fiscal year 2013, \$40,153 in fiscal year 2014, and \$40,570 in fiscal year 2015.

Based upon FY11 sales of 547 million stamps the tax increase of 3.65 cents per cigarette (73 cents per pack of 20) would raise approximately \$399 million per calendar year. Currently, the tax collected on roll your own tobacco is not reported separately from other tobacco products. The department is not able to estimate what the impact the tax increase would have on these products. Additionally, some portion of the \$158.7 million reported as the manufacturers invoice price for all other tobacco products sales during FY11 would include roll your own tobacco. However, if you based the tax increase on other tobacco products on the full amount reported in FY11, it would increase total collections by \$23.8 million dollars per year.

Under current law, wholesales receive discounts equal to three percent of the face value of each cigarette stamp. Based upon the FY11 sales of 547 million stamps, wholesalers received discounts of approximately \$2,789,700. Under the proposed legislation they would have received only \$2,735,000 in discounts if the tax rate did not increase. However, if the tax rate increases by \$.73, wholesalers would have received \$14,769,000. Under the proposed legislation, they would receive approximately \$12 million less in allowance.

The department will have programming expenses of \$40,068 to update and create tobacco processing systems.

The department will need one Revenue Processing Technician to perform additional duties required by Section 196.1029.

Comments

This initiative would go before voters on November 6, 2012. If passed, it would go into effect January 1, 2013. This would give Taxation approximately 45 days to implement. The Department of Revenue suggests the effective date be changed to either July 1, 2013 or January 1, 2014. This would allow time to develop new forms, communicate this to licensees, and to complete any programming needed. This would also allow additional time for the department to request bids on a new stamp design, if necessary.

149.011(2) - By increasing the weight from 3 lbs to 4 lbs per thousand and including language that it can be wrapped in anything, this definition of cigarette would appear to include "little cigars." This would require stamping of packs of little cigars. It is unclear if little cigars would also fall under the MSA requirements and the Fire Safety

requirements. In addition the definition of a cigarette under section 320.350, fire safety statutes, would be in conflict with the definition of cigarette under this legislation.

149.011(14) - The department requests clarification of what products are defined as "other product containing tobacco intended or expected to be consumed without being combusted."

149.018.4 (1) – Section 149.018.4-The department recommends removing the one and one half of one percent limit on the cost of collection and indicating the cost of collection shall be equal to the actual costs incurred by the department. At a minimum, the cap should be increased to three percent of the moneys collected.

149.018.4(3) - Section 149.018.4 - The department requests clarification of how it is to determine if the increase in tax caused a decrease in the consumption of cigarettes. Over the past several years there has been a decline in the number of stamps sold which could be attributed to factors such as discontinued use of cigarettes due to health related issues or to the recent increase of the federal cigarette tax. There has been a slight increase in the amount of tax collected on other tobacco products, which may be attributed to public use of other tobacco products such as pipe tobacco, used as roll you own tobacco or purchasing little cigars which are similar in appearance to cigarettes but taxed at a lower federal tax rate. Each year the contributing factors to any decrease in the amounts deposited to the accounts could change and they may not be easily identified. It might be beneficial to add language that would require DOR to consult with the Department of Health in making the determination on what to attribute any decreases to.

149.018.5 - The department requests clarification of who is to make the distributions to the Tobacco Use Prevention and Quit Assistance Account, to the Public Education Account and the Public Higher Education Account.

149.018.10 - Imposes the taxes on existing inventory of any person licensed under Chapter 149. Retailers are not required to be licensed under Chapter 149. It is unclear if licensees who also operate retail establishments will be required to remit the tax increase on the product held by their retail operation. This legislation would appear to single out those retailers who happen to have a license and would not be inclusive of all other retailers. By only targeting those licensed under Chapter 149 for payment of the tax increase of in stock inventory, it opens up the possibility for stockpiling by other large retailers and allowing them to reap a windfall after the tax increase takes effect. In addition stockpiling of cigarettes could result in stamp shortages by DOR.

196.1023.4 –This appears to requires non-participating manufacturers to post a bond if its cigarettes were not sold in the state during any one of the four preceding calendar quarters, if it or any person affiliated with it failed to make a full and timely escrow deposit or if it or any person affiliated with it was removed from any states directory during any of the five preceding calendar years. This will require continual research to determine if any non-participating manufacturers meet the conditions for a bond. Quarterly escrow deposits must be made within 30 days after the end of each quarter

under section 196.1003.1(4). This legislation appears to require a non-participating manufacturer to post a bond 10 days before the start to the next quarter in order to be listed in the directory for the next quarter. These two requirements appear to be in conflict with each other. In addition the department does not receive information from wholesalers regarding units sold until the 20th of each month. The department will not be able to determine if a bond is required 10 days before a new quarter begins because not all of the information regarding sales will be received more than 10 days before the start of the quarter.

The department recommends adding language to allow the department to promulgate rules in order to carry out the provisions of sections 149.011 to 149.215 or at least to cover the new section 149.018.

Officials from the **Department of Social Services** indicated:

This initiative petition seeks to impose an additional tax on tobacco products. The additional tax is 3.65¢ per cigarette, 25% of the manufacturer's invoice price for roll-your-own tobacco, and 15% of the manufacturer's invoice price for all other tobacco products. The tax is effective January 1, 2013.

The state may retain up to 1.5% of the total collected to cover the additional actual costs incurred by the state in collecting and enforcing the new taxes.

The petition creates the Health and Education Trust Fund for deposit of the remaining additional taxes collected. Money in the fund shall be credited to three separate accounts:

- Tobacco Use Prevention and Quit Assistance Account (20%);
- Public Education Account (50%); and
- Public Higher Education Account (30%).

The General Assembly may appropriate up to 1/5th of 1% of the Tobacco Use Prevention and Quit Assistance Account to the Attorney General and other state agencies for the purpose of enforcing and administering the Master Settlement Agreement.

Tax proceeds can be used only for the purposes stated in the initiative.

On an annual basis, the Director of the Department of Revenue must determine whether the new taxes imposed have directly caused a decrease in tobacco consumption, thereby causing a reduction in the amount of moneys collected and deposited into the Fair Share Fund, the Health Initiatives Fund (HIF), or the state school moneys fund. If this is the case, the Department of Revenue must transfer from the Health and Education Trust Fund to these three funds an amount equal to the amount of money that were not collected and deposited into those funds because of the taxes imposed by this initiative. Transfers are

limited to 3% of the total moneys collected from the additional tobacco tax imposed by this initiative.

The department currently receives money from the Health Initiatives Fund. Theoretically, the Health Initiatives Fund should be made whole by this transfer and there would be no fiscal impact to their department.

The proposal also creates the Missouri Healthy Families Commission to administer the activities funded by the Tobacco Use Prevention and Quit Assistance Account. The department may designate a non-voting, ex officio representative to the Board of Directors of the Commission. They do not expect a significant fiscal impact due to this provision.

The balance of the proposal concerns tobacco stamps affixed to tobacco products and so-called non-participating manufacturers. These provisions have no impact the their department.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there is no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal imposes an additional tax of 3.65¢ per cigarette (73¢ per pack of 20); levies an additional 15% tax on other tobacco products (OTP); levies an additional tax of 25% on newly-defined "roll-your-own" products; changes the compensation rate for wholesalers; and requires non-participating manufacturers to post a bond. The changes are effective January 1, 2013.

New monies are deposited into the Health and Education Trust Fund and allocated as follows:

- 1) Tobacco Use Prevention and Quit Assistance Account (20%);
- 2) Public Education Account (50%);
- 3) Public Higher Education Account (30%).

The Missouri Healthy Families Commission is created to administer the Tobacco Use Prevention and Quit Assistance Account. The Commission is assigned to the Department of Health and Senior Services for budget and reporting purposes. The nine member commission is appointed by the Governor with advice and consent of the Senate.

The Public Education Account is appropriated to DESE for distribution to school districts with at least 25% of the money to be used in direct classroom expenditures.

The Public Higher Education Account is distributed to public colleges and universities in proportion to the total base operating appropriations for all public colleges and universities in the preceding fiscal year.

The proposed amendment to the Revised Statutes of Missouri should not result in additional costs or savings to the Office of Administration should it be approved by the voters. However, there is a statewide impact on revenues to the state.

The Division of Budget and Planning (BAP) calculates the impact of the cigarette tax increase by estimating the quantity of packs currently sold, applying the midpoint formula for elasticity to estimate the new quantity of packs, then calculating increased revenues.

BAP notes the following:

1. BAP estimates the current retail price of one cigarette pack is \$4.50 = \$4.33 price + \$0.17 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. The website "Tobacco Free Kids" estimates the average cigarette tax as \$1.46 per pack, as of June 28, 2011.¹ A tax of \$0.90 (the proposed \$0.73 plus the existing tax of \$0.17) would be below this average, but would exceed the tax rate of four neighboring states.
3. State cigarette taxes in FY11 totaled \$89,965,910, according to the SAM II Data Warehouse.²
4. "Elasticity" is the ratio of the change in quantity sold to the change in price. The CDC estimates the cigarette price elasticity as -0.4,³ which suggests a 4% drop in sales for each 10% increase in cost. However, research by Goolsbee (2004)⁴ demonstrates the elasticity for state cigarette taxes likely exceeds -1.2, and could exceed -2.0, depending on internet access.
5. Given the above information, BAP estimates the elasticity at -0.8 for this analysis.
6. This analysis uses the midpoint-method to estimate the new quantity (Q2) of cigarette packs taxed as a result of the tax increase:
$$E = \{(Q2-Q1) / \text{AVG}(Q2,Q1)\} / \{(P2-P1) / \text{AVG}(P2,P1)\}$$

Based on this information, BAP estimates increased cigarette tax revenues of \$332.4M annually (see Table 1).

Similarly for the increased OTP tax:

¹ <http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf>, accessed November 22, 2011.

² Data warehouse accessed September 21, 2011

³ http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm, accessed September 21, 2011.

⁴ <http://faculty.chicagobooth.edu/workshops/AppliedEcon/archive/pdf/goolsbee.pdf>, accessed September 21, 2011

1. BAP estimates the current retail price of one “unit” of tobacco is \$4.50 = \$4.09 + \$0.41 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. BAP estimates the elasticity as -0.8, as above, and uses the midpoint formula, as above.

Based on this information, BAP estimates increased OTP taxes of \$19.5M annually (see Table 2).

BAP notes that currently, "roll-your-own" products are taxed as an OTP product. However, BAP does not have data on what proportion of OTP sales would qualify as "roll-your-own", and thus for the higher proposed tax rate. Therefore, there will also be an additional unknown increase in revenues resulting from this source.

The proposal directs the DOR to estimate the decreased consumption of cigarettes and OTP as a result of this proposal, and then to hold existing dedicated funds harmless. This analysis estimates a decrease of 60M cigarette packs. At 17¢ per-pack, this implies the DOR would need to transfer an estimated \$10.2M of the new cigarette revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 10.0M. Similarly, this analysis estimates a decrease of 3.7M "units" of OTP sales. At an estimated tax rate of 41¢, this suggests a transfer of \$1.5M of the new OTP revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 0.6M.

BAP defers to DOR for impacts of the changes to the compensation rate and bond postings; and to the Attorney General’s Office on the impacts in changes related to the Master Settlement Agreement.

Table 1.

Cigarettes	Current (FY11)	New
Tax (per pack)	\$0.17	\$0.90
Estimated Cost Per Pack	\$4.50	\$5.23

Estimated Packs with Tax Increase, using Midpoint Formula

FY11 Revenues	\$89,965,910
Q1	529,211,235
P1	\$4.50
P2	\$5.23
Estimated Elasticity (see notes)	-0.8
Q2	469,281,167
Total Revenues	\$422,353,050
Increased Revenues	\$332,387,140

Table 2.

OTP	Current (FY11)	New
Tax (per unit)	10%	25%
Estimated Retail Cost Per Unit	\$4.50	\$5.11
Estimated Wholesale Cost Per Unit	\$4.09	
Estimated Units with Tax Increase, using Midpoint Formula		
FY11 Revenues		\$15,551,490
Estimated Current Wholesales		\$155,514,900
Q1		38,023,203
P1		\$4.50
P2		\$5.11
Estimated Elasticity (see notes)		-0.8
Q2		34,328,641
Estimated New Wholesales		\$140,404,142
Total Revenues		\$35,101,036
Increased Revenues		\$19,549,546

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of their city but authorize state taxes and state activities, therefore, they have no fiscal impact on the city.

Officials from the **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, if this results in an increase in general revenue for the State of Missouri, there may be a positive fiscal impact on their college since the majority of their state appropriations come from general revenue funds.

Officials from **Metropolitan Community College** indicated this legislation would have a positive, but unknown, fiscal impact on their college.

The **State Auditor's office** estimated annual audit costs required in the proposal would be up to an estimated \$40,000.

Robert L. Hess, II provided information as a proponent of this initiative petition.

As set forth in the enclosed analysis, tobacco use causes approximately \$2.13 billion in annual health care expenditures in Missouri. Smoking specifically causes approximately \$532 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by \$0.73 per pack, would increase the tax on roll-your-own tobacco by 25%, and would increase the tax on other tobacco products by 15%. Those tax increases would raise over \$283 million in new state revenue to help adults stop smoking, to keep kids from starting smoking, and to support public education and higher education.

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 12% in Missouri and keep 45,700 kids in Missouri from becoming addicted adult smokers and help 28,200 current adult smokers quit. Twenty two thousand (22,000) Missouri residents would be saved from premature smoking-caused deaths.

There would also be a fiscal benefit to the citizens of the state from the improved public health. In the first five years, there would be more than \$30 million in savings from fewer smoking-related pregnancies, births, heart attacks and strokes. The long term savings would be approximately a billion dollars.

**NEW REVENUES, PUBLIC HEALTH BENEFITS & COST SAVINGS
FROM A 73-CENT CIGARETTE TAX INCREASE IN MISSOURI**

Current state cigarette tax: 17 cents per pack (51st among all states)
Smoking-caused costs in Missouri: \$7.61 per pack

Annual healthcare expenditures in Missouri directly caused by tobacco use: \$2.13 billion
Smoking-caused state Medicaid program spending each year: \$532.0 million

New Annual Revenue from Increasing the Cigarette Tax Rate by 73 Cents Per Pack: \$265.7 million

Additional Revenue from Raising OTP Rates to 25% Manufacturer's Price: \$17.3 million

New Annual Revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue if it fails to apply the rate increase to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date.

<u>Projected Public Health Benefits from the Cigarette Tax Rate Increase</u>	
<i>Percent decrease in youth smoking:</i>	12.0%
<i>Kids in Missouri kept from becoming addicted adult smokers:</i>	45,700
<i>Current adult smokers in the state who would quit:</i>	28,200
<i>Smoking-affected births avoided over next five years:</i>	7,950
<i>Missouri residents saved from premature smoking-caused death:</i>	22,000
<i>5-year health savings from fewer smoking-affected pregnancies & births:</i>	\$13.5 million
<i>5-year health savings from fewer smoking-caused heart attacks & strokes:</i>	\$17.4 million
<i>Long-term health savings in the state from adult & youth smoking declines:</i>	\$1.0 billion

- Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).
- Raising state tax rates on other tobacco products (OTPs) to parallel the increased cigarette tax rate will bring the state more revenues, public health benefits, and cost savings (and promote tax equity). With unequal rates, the state loses revenue each time a cigarette smoker switches to cigars, RYO, or smokeless. To parallel the new \$0.90 per pack cigarette tax, the state's new OTP tax rate should be at least 30% of wholesale

price with minimum tax rates for each major OTP category linked to the state cigarette tax rate on a per-package or per-dose basis.

Needed State Efforts to Protect State Tobacco Tax Revenues

Having each of the following measures in place will maintain and increase state tobacco tax revenues by closing loopholes, blocking contraband trafficking, and preventing tax evasion.

State tax rate on RYO cigarettes equals the state tax rate on regular cigarettes	Yes
State tax rates on other tobacco products match the state cigarette tax rate	Yes
State definitions of "cigarette" block cigarettes from wrongfully qualifying as "cigars"	No
State definitions of "tobacco product" reach all tobacco products	No
Loopholes for the new generation of smokeless products (snus, tablets, etc.) closed	No
Minimum taxes on all tobacco products to block tax evasion and promote tax equity	No
"High-tech" tax stamps to stop counterfeiting and other smuggling and tax evasion	No
Retailers lose license if convicted of contraband trafficking	Yes
Street sales and mobile sales of cigarettes and other tobacco products prohibited	Yes
Non-Tobacco nicotine products without FDA approval banned	No

More information available at

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

Campaign for Tobacco-Free Kids 10.07.10 / Ann Boonn, October 26, 2011

Explanations & Notes

Projections are based on research findings that each 10% cigarette price increase reduces youth smoking by 6.5%, adult rates by 2%, and total consumption by 4% (adjusted down to account for tax evasion effects). Revenues still increase because the higher tax rate per pack will bring in more new revenue than is lost from the tax-related drop in total pack sales.

The projections incorporate the effect of both ongoing background smoking declines and the continued impact of the 61.66-cent federal cigarette tax increase (effective April 1, 2009) on prices, smoking levels and pack sales.

These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and lower net new revenues) from possible new smuggling and tax evasion after the rate increase and from fewer sales to smokers or smugglers from other states. For ways that the state can protect and increase its tobacco tax revenues and prevent and reduce contraband trafficking and other tobacco tax evasion, see the Campaign for Tobacco-Free Kids factsheet, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over the lifetimes of persons who stop smoking or never start because of the rate

increase. All cost and savings in 2004 dollars. Projections will be updated when new relevant data or research becomes available.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, <http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf>.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>.

For more on sources and calculations, see
<http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf>

Additional Information on Tobacco Product Tax Increases

Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases, <http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf>.

State Cigarette Excise Tax Rates & Rankings,
<http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf>.

Top Combined State-Local Cigarette Tax Rates (State plus County plus City),
<http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

State Cigarette Tax Increases Benefit Lower-Income Smokers and Families,
<http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf>.

The Best Way to Tax Smokeless Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf>.

The Problem with Roll-Your-Own (RYO) Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0336.pdf>.

How to Make State Cigar Tax Rates Fair and Effective,
<http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf>.

State Benefits from Increasing Smokeless Tobacco Tax Rates,
<http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf>.

The Case for High-Tech Cigarette Tax Stamps,
<http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf>.

State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>

For questions or model legislation, please contact factsheets@tobaccofreekids.org.

For all TFK factsheets on tobacco tax increases, see

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, the Missouri Senate, Cass County, Cole County, Greene County, Jasper County, St. Louis County, the City of Cape Girardeau, the City of Mexico, the City of St. Joseph, the City of St. Louis, Cape Girardeau 63 School District, Hannibal 60 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

Estimated additional revenue to state government is \$283 million to \$423 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown. Escrow fund changes may result in an unknown increase in future state revenue.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-06)**

Subject

Initiative petition from Robert Hess regarding a proposed amendment to Chapters 149 and 196 of the Revised Statutes of Missouri. (Received January 10, 2012)

Date

January 30, 2012

Description

This proposal would amend Chapters 149 and 196 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Cass County**, **Cole County**, **Greene County**, **Jasper County**, **St. Louis County**, the **City of Cape Girardeau**, the **City of Kansas City**, the **City of Mexico**, the **City of St. Joseph**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri** and **St. Louis Community College**.

Robert L. Hess, II provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated:

The proposal would simplify one issue related to enforcement of the escrow provisions. Due to the complexity of the current litigation related to the tobacco settlement; however, they do not expect the proposal to immediately result in savings. After litigation concludes, they assume the proposal would result in a savings of .5 AAG II, (\$47,500) resulting in a savings of \$39,963 in FY13 to the General Revenue Fund.

They also note that the amendment to section 196.1003 has the potential to result in an increase to the amount of payments received by Missouri from the Master Settlement Agreement (MSA). Because the amount of the payments is calculated based on variables such as the amount of sales in a given year, they cannot specifically predict the dollar amount.

Officials from the **Department of Agriculture** indicated that there was no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

This proposal will present no costs to the state (none that will not be covered by the increased revenue); but has the potential to add significant funding to Missouri public schools.

According to The Campaign for Tobacco-Free Kids in Washington estimates, this proposal which also would raise taxes on other tobacco products besides cigarettes, would generate about \$283 million annually for the state. The proposal would allot half of that money to elementary and secondary education, 30 percent to colleges and universities and 20 percent to programs intended to prevent people from using tobacco or help them quit doing so.

A 50% allocation to K-12 education would mean an additional \$141.5 million of funding (based on the estimate of The Campaign for Tobacco-Free Kids in Washington). Since it is currently projected that funding for the Foundation Program is approximately \$292 million deficient, these funds could be put to good use.

Officials from the **Department of Higher Education** indicated:

This version of initiative petition 12-06 is estimated to cost their department approximately \$76,170 in the first full fiscal year in which its provisions are in effect.

Section 149.018.8 contains a provision which reads as follows: "The department of higher education shall ensure that at least twenty-five percent of the moneys distributed from the Public Higher Education Account are used for programs and initiatives related to the education, training, and development of future caregivers including physicians, dentists, optometrists, pharmacists, nurses, and other health care providers." This provision would require the MDHE to perform an audit function to track the use of funds distributed to institutions from the Public Higher Education Account created by the petition. The MDHE does not currently perform any such function in relation to funds appropriated to institutions and would be required to hire one full-time employee (FTE) with related experience to fulfill MDHE's duties required by the provision.

With an annual salary of \$50,000 and a fringe-benefit package estimated at 52.34% or \$26,170, the MDHE estimates the total cost of the FTE to be \$76,170 in the first full fiscal year in which the provisions of the initiative petition are in effect. The negative fiscal impact of the initiative petition on the MDHE would subsequently increase in years in which staff salary raises were implemented by the state or the costs of fringe-benefit packages increased in a proportion equal to those cost increases.

Officials from the **Department of Health and Senior Services (DHSS)** indicated:

This initiative petition is similar to IP 11-105. The minor differences do not result in any changes in the fiscal impact submitted in response to IP 11-105 for the DHSS.

Comments:

The fiscal impact for IP 12-06 is the same as that submitted for IP 11-105 for DHSS. At the discretion of the Missouri Healthy Families Commission, DHSS assumes the department may play a role in administering tobacco quit assistance and comprehensive tobacco control efforts. The Missouri Healthy Families Commission would be assigned to DHSS for budgeting and reporting functions only. DHSS would be required to fund the activities of the Commission including the quarterly meetings. At this time, it is not possible to estimate the activities the department will be involved with and therefore assumes \$6,480 (9 members X \$180 per member/meeting X 4 meetings) to unknown costs for the proposed legislation. DHSS assumes all costs will be offset with revenue generated by the language resulting in a \$0 net fiscal impact. DHSS defers to the Office of Administration regarding the statewide fiscal impact to this proposed legislation.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition is no impact to the department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated increased costs would be \$78,499 in fiscal year 2013, \$40,153 in fiscal year 2014, and \$40,570 in fiscal year 2015.

Based upon FY11 sales of 547 million stamps the tax increase of 3.65 cents per cigarette (73 cents per pack of 20) would raise approximately \$399 million per calendar year. Currently, the tax collected on roll your own tobacco is not reported separately from other tobacco products. The department is not able to estimate what the impact the tax increase would have on these products. Additionally, some portion of the \$158.7 million reported as the manufacturers invoice price for all other tobacco products sales during FY11 would include roll your own tobacco. However, if you based the tax increase on other tobacco products on the full amount reported in FY11, it would increase total collections by \$23.8 million dollars per year.

Under current law, wholesales receive discounts equal to three percent of the face value of each cigarette stamp. Based upon the FY11 sales of 547 million stamps, wholesalers received discounts of approximately \$2,789,700. Under the proposed legislation they would have received only \$2,735,000 in discounts if the tax rate did not increase. However, if the tax rate increases by \$.73, wholesalers would have received \$14,769,000. Under the proposed legislation, they would receive approximately \$12 million less in allowance.

The department will have programming expenses of \$40,068 to update and create tobacco processing systems.

The department will need one Revenue Processing Technician to perform additional duties required by Section 196.1029.

Comments

This initiative would go before voters on November 6, 2012. If passed, it would go into effect January 1, 2013. This would give Taxation approximately 45 days to implement. The Department of Revenue suggests the effective date be changed to either July 1, 2013 or January 1, 2014. This would allow time to develop new forms, communicate this to licensees, and to complete any programming needed. This would also allow additional time for the department to request bids on a new stamp design, if necessary.

149.011(2) - By increasing the weight from 3 lbs to 4 lbs per thousand and including language that in can be wrapped in anything, this definition of cigarette would appear to include "little cigars." This would require stamping of packs of little cigars. It is unclear if little cigars would also fall under the MSA requirements and the Fire Safety

requirements. In addition the definition of a cigarette under section 320.350, fire safety statutes, would be in conflict with the definition of cigarette under this legislation.

149.011(14) - The department requests clarification of what products are defined as "other product containing tobacco intended or expected to be consumed without being combusted."

149.018.4 (1) – Section 149.018.4-The department recommends removing the one and one half of one percent limit on the cost of collection and indicating the cost of collection shall be equal to the actual costs incurred by the department. At a minimum, the cap should be increased to three percent of the moneys collected.

149.018.4(3) - Section 149.018.4 - The department requests clarification of how it is to determine if the increase in tax caused a decrease in the consumption of cigarettes. Over the past several years there has been a decline in the number of stamps sold which could be attributed to factors such as discontinued use of cigarettes due to health related issues or to the recent increase of the federal cigarette tax. There has been a slight increase in the amount of tax collected on other tobacco products, which may be attributed to public use of other tobacco products such as pipe tobacco, used as roll you own tobacco or purchasing little cigars which are similar in appearance to cigarettes but taxed at a lower federal tax rate. Each year the contributing factors to any decrease in the amounts deposited to the accounts could change and they may not be easily identified. It might be beneficial to add language that would require DOR to consult with the Department of Health in making the determination on what to attribute any decreases to.

149.018.5 - The department requests clarification of who is to make the distributions to the Tobacco Use Prevention and Quit Assistance Account, to the Public Education Account and the Public Higher Education Account.

149.018.10 - Imposes the taxes on existing inventory of any person licensed under Chapter 149. Retailers are not required to be licensed under Chapter 149. It is unclear if licensees who also operate retail establishments will be required to remit the tax increase on the product held by their retail operation. This legislation would appear to single out those retailers who happen to have a license and would not be inclusive of all other retailers. By only targeting those licensed under Chapter 149 for payment of the tax increase of in stock inventory, it opens up the possibility for stockpiling by other large retailers and allowing them to reap a windfall after the tax increase takes effect. In addition stockpiling of cigarettes could result in stamp shortages by DOR.

196.1023.4 –This appears to requires non-participating manufacturers to post a bond if its cigarettes were not sold in the state during any one of the four preceding calendar quarters, if it or any person affiliated with it failed to make a full and timely escrow deposit or if it or any person affiliated with it was removed from any states directory during any of the five preceding calendar years. This will require continual research to determine if any non-participating manufacturers meet the conditions for a bond. Quarterly escrow deposits must be made within 30 days after the end of each quarter

under section 196.1003.1(4). This legislation appears to require a non-participating manufacturer to post a bond 10 days before the start to the next quarter in order to be listed in the directory for the next quarter. These two requirements appear to be in conflict with each other. In addition the department does not receive information from wholesalers regarding units sold until the 20th of each month. The department will not be able to determine if a bond is required 10 days before a new quarter begins because not all of the information regarding sales will be received more than 10 days before the start of the quarter.

The department recommends adding language to allow the department to promulgate rules in order to carry out the provisions of sections 149.011 to 149.215 or at least to cover the new section 149.018.

Officials from the **Department of Social Services** indicated:

This initiative petition seeks to impose an additional tax on tobacco products. The additional tax is 3.65¢ per cigarette, 25% of the manufacturer's invoice price for roll-your-own tobacco, and 15% of the manufacturer's invoice price for all other tobacco products. The tax is effective January 1, 2013.

The state may retain up to 1.5% of the total collected to cover the additional actual costs incurred by the state in collecting and enforcing the new taxes.

The petition creates the Health and Education Trust Fund for deposit of the remaining additional taxes collected. Money in the fund shall be credited to three separate accounts:

- Tobacco Use Prevention and Quit Assistance Account (20%);
- Public Education Account (50%); and
- Public Higher Education Account (30%).

The General Assembly may appropriate up to 1/5th of 1% of the Tobacco Use Prevention and Quit Assistance Account to the Attorney General and other state agencies for the purpose of enforcing and administering the Master Settlement Agreement.

Tax proceeds can be used only for the purposes stated in the initiative.

On an annual basis, the Director of the Department of Revenue must determine whether the new taxes imposed have directly caused a decrease in tobacco consumption, thereby causing a reduction in the amount of moneys collected and deposited into the Fair Share Fund, the Health Initiatives Fund (HIF), or the state school moneys fund. If this is the case, the Department of Revenue must transfer from the Health and Education Trust Fund to these three funds an amount equal to the amount of money that were not collected and deposited into those funds because of the taxes imposed by this initiative. Transfers are

limited to 3% of the total moneys collected from the additional tobacco tax imposed by this initiative.

The department currently receives money from the Health Initiatives Fund. Theoretically, the Health Initiatives Fund should be made whole by this transfer and there would be no fiscal impact to their department.

The proposal also creates the Missouri Healthy Families Commission to administer the activities funded by the Tobacco Use Prevention and Quit Assistance Account. The department may designate a non-voting, ex officio representative to the Board of Directors of the Commission. They do not expect a significant fiscal impact due to this provision.

The balance of the proposal concerns tobacco stamps affixed to tobacco products and so-called non-participating manufacturers. These provisions have no impact the their department.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there is no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal imposes an additional tax of 3.65¢ per cigarette (73¢ per pack of 20); levies an additional 15% tax on other tobacco products (OTP); levies an additional tax of 25% on newly-defined "roll-your-own" products; changes the compensation rate for wholesalers; and requires non-participating manufacturers to post a bond. The changes are effective January 1, 2013.

New monies are deposited into the Health and Education Trust Fund and allocated as follows:

- 1) Tobacco Use Prevention and Quit Assistance Account (20%);
- 2) Public Education Account (50%);
- 3) Public Higher Education Account (30%).

The Missouri Healthy Families Commission is created to administer the Tobacco Use Prevention and Quit Assistance Account. The Commission is assigned to the Department of Health and Senior Services for budget and reporting purposes. The nine member commission is appointed by the Governor with advice and consent of the Senate.

The Public Education Account is appropriated to DESE for distribution to school districts with at least 25% of the money to be used in direct classroom expenditures.

The Public Higher Education Account is distributed to public colleges and universities in proportion to the total base operating appropriations for all public colleges and universities in the preceding fiscal year.

The proposed amendment to the Revised Statutes of Missouri should not result in additional costs or savings to the Office of Administration should it be approved by the voters. However, there is a statewide impact on revenues to the state.

The Division of Budget and Planning (BAP) calculates the impact of the cigarette tax increase by estimating the quantity of packs currently sold, applying the midpoint formula for elasticity to estimate the new quantity of packs, then calculating increased revenues.

BAP notes the following:

1. BAP estimates the current retail price of one cigarette pack is \$4.50 = \$4.33 price + \$0.17 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. The website "Tobacco Free Kids" estimates the average cigarette tax as \$1.46 per pack, as of June 28, 2011.¹ A tax of \$0.90 (the proposed \$0.73 plus the existing tax of \$0.17) would be below this average, but would exceed the tax rate of four neighboring states.
3. State cigarette taxes in FY11 totaled \$89,965,910, according to the SAM II Data Warehouse.²
4. "Elasticity" is the ratio of the change in quantity sold to the change in price. The CDC estimates the cigarette price elasticity as -0.4,³ which suggests a 4% drop in sales for each 10% increase in cost. However, research by Goolsbee (2004)⁴ demonstrates the elasticity for state cigarette taxes likely exceeds -1.2, and could exceed -2.0, depending on internet access.
5. Given the above information, BAP estimates the elasticity at -0.8 for this analysis.
6. This analysis uses the midpoint-method to estimate the new quantity (Q2) of cigarette packs taxed as a result of the tax increase: $E = \{(Q2-Q1) / \text{AVG}(Q2,Q1)\} / \{(P2-P1) / \text{AVG}(P2,P1)\}$

Based on this information, BAP estimates increased cigarette tax revenues of \$332.4M annually (see Table 1).

Similarly for the increased OTP tax:

¹ <http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf>, accessed November 22, 2011.

² Data warehouse accessed September 21, 2011

³ http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm, accessed September 21, 2011.

⁴ <http://faculty.chicagobooth.edu/workshops/AppliedEcon/archive/pdf/goolsbee.pdf>, accessed September 21, 2011

1. BAP estimates the current retail price of one “unit” of tobacco is \$4.50 = \$4.09 + \$0.41 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. BAP estimates the elasticity as -0.8, as above, and uses the midpoint formula, as above.

Based on this information, BAP estimates increased OTP taxes of \$19.5M annually (see Table 2).

BAP notes that currently, "roll-your-own" products are taxed as an OTP product. However, BAP does not have data on what proportion of OTP sales would qualify as "roll-your-own", and thus for the higher proposed tax rate. Therefore, there will also be an additional unknown increase in revenues resulting from this source.

The proposal directs the DOR to estimate the decreased consumption of cigarettes and OTP as a result of this proposal, and then to hold existing dedicated funds harmless. This analysis estimates a decrease of 60M cigarette packs. At 17¢ per-pack, this implies the DOR would need to transfer an estimated \$10.2M of the new cigarette revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 10.0M. Similarly, this analysis estimates a decrease of 3.7M "units" of OTP sales. At an estimated tax rate of 41¢, this suggests a transfer of \$1.5M of the new OTP revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 0.6M.

BAP defers to DOR for impacts of the changes to the compensation rate and bond postings; and to the Attorney General’s Office on the impacts in changes related to the Master Settlement Agreement.

Table 1.

Cigarettes	Current (FY11)	New
Tax (per pack)	\$0.17	\$0.90
Estimated Cost Per Pack	\$4.50	\$5.23

Estimated Packs with Tax Increase, using Midpoint Formula

FY11 Revenues	\$89,965,910
Q1	529,211,235
P1	\$4.50
P2	\$5.23
Estimated Elasticity (see notes)	-0.8
Q2	469,281,167
Total Revenues	\$422,353,050
Increased Revenues	\$332,387,140

Table 2.

OTP	Current (FY11)	New
Tax (per unit)	10%	25%
Estimated Retail Cost Per Unit	\$4.50	\$5.11
Estimated Wholesale Cost Per Unit	\$4.09	
Estimated Units with Tax Increase, using Midpoint Formula		
FY11 Revenues		\$15,551,490
Estimated Current Wholesales		\$155,514,900
Q1		38,023,203
P1		\$4.50
P2		\$5.11
Estimated Elasticity (see notes)		-0.8
Q2		34,328,641
Estimated New Wholesales		\$140,404,142
Total Revenues		\$35,101,036
Increased Revenues		\$19,549,546

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of their city but authorize state taxes and state activities, therefore, they have no fiscal impact on the city.

Officials from the **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, if this results in an increase in general revenue for the State of Missouri, there may be a positive fiscal impact on their college since the majority of their state appropriations come from general revenue funds.

Officials from **Metropolitan Community College** indicated this legislation would have a positive, but unknown, fiscal impact on their college.

The **State Auditor's office** estimated annual audit costs required in the proposal would be up to an estimated \$40,000.

Robert L. Hess, II provided information as a proponent of this initiative petition.

As set forth in the enclosed analysis, tobacco use causes approximately \$2.13 billion in annual health care expenditures in Missouri. Smoking specifically causes approximately \$532 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by \$0.73 per pack, would increase the tax on roll-your-own tobacco by 25%, and would increase the tax on other tobacco products by 15%. Those tax increases would raise over \$283 million in new state revenue to help adults stop smoking, to keep kids from starting smoking, and to support public education and higher education.

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 12% in Missouri and keep 45,700 kids in Missouri from becoming addicted adult smokers and help 28,200 current adult smokers quit. Twenty two thousand (22,000) Missouri residents would be saved from premature smoking-caused deaths.

There would also be a fiscal benefit to the citizens of the state from the improved public health. In the first five years, there would be more than \$30 million in savings from fewer smoking-related pregnancies, births, heart attacks and strokes. The long term savings would be approximately a billion dollars.

NEW REVENUES, PUBLIC HEALTH BENEFITS & COST SAVINGS
FROM A 73-CENT CIGARETTE TAX INCREASE IN MISSOURI

Current state cigarette tax: 17 cents per pack (51st among all states)
Smoking-caused costs in Missouri: \$7.61 per pack

Annual healthcare expenditures in Missouri directly caused by tobacco use: \$2.13 billion
Smoking-caused state Medicaid program spending each year: \$532.0 million

<i>New Annual Revenue from Increasing the Cigarette Tax Rate by 73 Cents Per Pack: \$265.7 million</i>
<i>Additional Revenue from Raising OTP Rates to 25% Manufacturer's Price: \$17.3 million</i>

New Annual Revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue if it fails to apply the rate increase to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date.

<u>Projected Public Health Benefits from the Cigarette Tax Rate Increase</u>	
<i>Percent decrease in youth smoking:</i>	12.0%
<i>Kids in Missouri kept from becoming addicted adult smokers:</i>	45,700
<i>Current adult smokers in the state who would quit:</i>	28,200
<i>Smoking-affected births avoided over next five years:</i>	7,950
<i>Missouri residents saved from premature smoking-caused death:</i>	22,000
<i>5-year health savings from fewer smoking-affected pregnancies & births:</i>	\$13.5 million
<i>5-year health savings from fewer smoking-caused heart attacks & strokes:</i>	\$17.4 million
<i>Long-term health savings in the state from adult & youth smoking declines:</i>	\$1.0 billion

- Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).
- Raising state tax rates on other tobacco products (OTPs) to parallel the increased cigarette tax rate will bring the state more revenues, public health benefits, and cost savings (and promote tax equity). With unequal rates, the state loses revenue each time a cigarette smoker switches to cigars, RYO, or smokeless. To parallel the new \$0.90 per pack cigarette tax, the state's new OTP tax rate should be at least 30% of wholesale

price with minimum tax rates for each major OTP category linked to the state cigarette tax rate on a per-package or per-dose basis.

Needed State Efforts to Protect State Tobacco Tax Revenues

Having each of the following measures in place will maintain and increase state tobacco tax revenues by closing loopholes, blocking contraband trafficking, and preventing tax evasion.

State tax rate on RYO cigarettes equals the state tax rate on regular cigarettes	Yes
State tax rates on other tobacco products match the state cigarette tax rate	Yes
State definitions of "cigarette" block cigarettes from wrongfully qualifying as "cigars"	No
State definitions of "tobacco product" reach all tobacco products	No
Loopholes for the new generation of smokeless products (snus, tablets, etc.) closed	No
Minimum taxes on all tobacco products to block tax evasion and promote tax equity	No
"High-tech" tax stamps to stop counterfeiting and other smuggling and tax evasion	No
Retailers lose license if convicted of contraband trafficking	Yes
Street sales and mobile sales of cigarettes and other tobacco products prohibited	Yes
Non-Tobacco nicotine products without FDA approval banned	No

More information available at

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

Campaign for Tobacco-Free Kids 10.07.10 / Ann Boonn, October 26, 2011

Explanations & Notes

Projections are based on research findings that each 10% cigarette price increase reduces youth smoking by 6.5%, adult rates by 2%, and total consumption by 4% (adjusted down to account for tax evasion effects). Revenues still increase because the higher tax rate per pack will bring in more new revenue than is lost from the tax-related drop in total pack sales.

The projections incorporate the effect of both ongoing background smoking declines and the continued impact of the 61.66-cent federal cigarette tax increase (effective April 1, 2009) on prices, smoking levels and pack sales.

These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and lower net new revenues) from possible new smuggling and tax evasion after the rate increase and from fewer sales to smokers or smugglers from other states. For ways that the state can protect and increase its tobacco tax revenues and prevent and reduce contraband trafficking and other tobacco tax evasion, see the Campaign for Tobacco-Free Kids factsheet, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over the lifetimes of persons who stop smoking or never start because of the rate

increase. All cost and savings in 2004 dollars. Projections will be updated when new relevant data or research becomes available.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, <http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf>.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>.

For more on sources and calculations, see
<http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf>

Additional Information on Tobacco Product Tax Increases

Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases, <http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf>.

State Cigarette Excise Tax Rates & Rankings,
<http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf>.

Top Combined State-Local Cigarette Tax Rates (State plus County plus City),
<http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

State Cigarette Tax Increases Benefit Lower-Income Smokers and Families,
<http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf>.

The Best Way to Tax Smokeless Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf>.

The Problem with Roll-Your-Own (RYO) Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0336.pdf>.

How to Make State Cigar Tax Rates Fair and Effective,
<http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf>.

State Benefits from Increasing Smokeless Tobacco Tax Rates,
<http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf>.

The Case for High-Tech Cigarette Tax Stamps,
<http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf>.

State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>

For questions or model legislation, please contact factsheets@tobaccofreekids.org.

For all TFK factsheets on tobacco tax increases, see

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, the Missouri Senate, Cass County, Cole County, Greene County, Jasper County, St. Louis County, the City of Cape Girardeau, the City of Mexico, the City of St. Joseph, the City of St. Louis, Cape Girardeau 63 School District, Hannibal 60 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

Estimated additional revenue to state government is \$283 million to \$423 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown. Escrow fund changes may result in an unknown increase in future state revenue.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-07)**

Subject

Initiative petition from Robert Hess regarding a proposed amendment to Chapters 149 and 196 of the Revised Statutes of Missouri. (Received January 10, 2012)

Date

January 30, 2012

Description

This proposal would amend Chapters 149 and 196 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Cass County**, **Cole County**, **Greene County**, **Jasper County**, **St. Louis County**, the **City of Cape Girardeau**, the **City of Kansas City**, the **City of Mexico**, the **City of St. Joseph**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri** and **St. Louis Community College**.

Robert L. Hess, II provided information as a proponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated:

The proposal would simplify one issue related to enforcement of the escrow provisions. Due to the complexity of the current litigation related to the tobacco settlement; however, they do not expect the proposal to immediately result in savings. After litigation concludes, they assume the proposal would result in a savings of .5 AAG II, (\$47,500) resulting in a savings of \$39,963 in FY13 to the General Revenue Fund.

They also note that the amendment to section 196.1003 has the potential to result in an increase to the amount of payments received by Missouri from the Master Settlement Agreement (MSA). Because the amount of the payments is calculated based on variables such as the amount of sales in a given year, they cannot specifically predict the dollar amount.

Officials from the **Department of Agriculture** indicated that there was no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

This proposal will present no costs to the state (none that will not be covered by the increased revenue); but has the potential to add significant funding to Missouri public schools.

According to The Campaign for Tobacco-Free Kids in Washington estimates, this proposal which also would raise taxes on other tobacco products besides cigarettes, would generate about \$283 million annually for the state. The proposal would allot half of that money to elementary and secondary education, 30 percent to colleges and universities and 20 percent to programs intended to prevent people from using tobacco or help them quit doing so.

A 50% allocation to K-12 education would mean an additional \$141.5 million of funding (based on the estimate of The Campaign for Tobacco-Free Kids in Washington). Since it is currently projected that funding for the Foundation Program is approximately \$292 million deficient, these funds could be put to good use.

Officials from the **Department of Higher Education** indicated:

This version of initiative petition 12-07 is estimated to cost their department approximately \$76,170 in the first full fiscal year in which its provisions are in effect.

Section 149.018.8 contains a provision which reads as follows: "The department of higher education shall ensure that at least twenty-five percent of the moneys distributed from the Public Higher Education Account are used for programs and initiatives related to the education, training, and development of future caregivers including physicians, dentists, optometrists, pharmacists, nurses, and other health care providers." This provision would require the MDHE to perform an audit function to track the use of funds distributed to institutions from the Public Higher Education Account created by the petition. The MDHE does not currently perform any such function in relation to funds appropriated to institutions and would be required to hire one full-time employee (FTE) with related experience to fulfill MDHE's duties required by the provision.

With an annual salary of \$50,000 and a fringe-benefit package estimated at 52.34% or \$26,170, the MDHE estimates the total cost of the FTE to be \$76,170 in the first full fiscal year in which the provisions of the initiative petition are in effect. The negative fiscal impact of the initiative petition on the MDHE would subsequently increase in years in which staff salary raises were implemented by the state or the costs of fringe-benefit packages increased in a proportion equal to those cost increases.

Officials from the **Department of Health and Senior Services (DHSS)** indicated:

This initiative petition is similar to IP 11-105. The minor differences do not result in any changes in the fiscal impact submitted in response to IP 11-105 for the DHSS.

Comments:

The fiscal impact for IP 12-07 is the same as that submitted for IP 11-105 for DHSS. At the discretion of the Missouri Healthy Families Commission, DHSS assumes the department may play a role in administering tobacco quit assistance and comprehensive tobacco control efforts. The Missouri Healthy Families Commission would be assigned to DHSS for budgeting and reporting functions only. DHSS would be required to fund the activities of the Commission including the quarterly meetings. At this time, it is not possible to estimate the activities the department will be involved with and therefore assumes \$6,480 (9 members X \$180 per member/meeting X 4 meetings) to unknown costs for the proposed legislation. DHSS assumes all costs will be offset with revenue generated by the language resulting in a \$0 net fiscal impact. DHSS defers to the Office of Administration regarding the statewide fiscal impact to this proposed legislation.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated this initiative petition is no impact to the department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated increased costs would be \$78,499 in fiscal year 2013, \$40,153 in fiscal year 2014, and \$40,570 in fiscal year 2015.

Based upon FY11 sales of 547 million stamps the tax increase of 3.65 cents per cigarette (73 cents per pack of 20) would raise approximately \$399 million per calendar year. Currently, the tax collected on roll your own tobacco is not reported separately from other tobacco products. The department is not able to estimate what the impact the tax increase would have on these products. Additionally, some portion of the \$158.7 million reported as the manufacturers invoice price for all other tobacco products sales during FY11 would include roll your own tobacco. However, if you based the tax increase on other tobacco products on the full amount reported in FY11, it would increase total collections by \$23.8 million dollars per year.

Under current law, wholesales receive discounts equal to three percent of the face value of each cigarette stamp. Based upon the FY11 sales of 547 million stamps, wholesalers received discounts of approximately \$2,789,700. Under the proposed legislation they would have received only \$2,735,000 in discounts if the tax rate did not increase. However, if the tax rate increases by \$.73, wholesalers would have received \$14,769,000. Under the proposed legislation, they would receive approximately \$12 million less in allowance.

The department will have programming expenses of \$40,068 to update and create tobacco processing systems.

The department will need one Revenue Processing Technician to perform additional duties required by Section 196.1029.

Comments

This initiative would go before voters on November 6, 2012. If passed, it would go into effect January 1, 2013. This would give Taxation approximately 45 days to implement. The Department of Revenue suggests the effective date be changed to either July 1, 2013 or January 1, 2014. This would allow time to develop new forms, communicate this to licensees, and to complete any programming needed. This would also allow additional time for the department to request bids on a new stamp design, if necessary.

149.011(2) - By increasing the weight from 3 lbs to 4 lbs per thousand and including language that in can be wrapped in anything, this definition of cigarette would appear to include "little cigars." This would require stamping of packs of little cigars. It is unclear if little cigars would also fall under the MSA requirements and the Fire Safety

requirements. In addition the definition of a cigarette under section 320.350, fire safety statutes, would be in conflict with the definition of cigarette under this legislation.

149.011(14) - The department requests clarification of what products are defined as "other product containing tobacco intended or expected to be consumed without being combusted."

149.018.4 (1) – Section 149.018.4-The department recommends removing the one and one half of one percent limit on the cost of collection and indicating the cost of collection shall be equal to the actual costs incurred by the department. At a minimum, the cap should be increased to three percent of the moneys collected.

149.018.4(3) - Section 149.018.4 - The department requests clarification of how it is to determine if the increase in tax caused a decrease in the consumption of cigarettes. Over the past several years there has been a decline in the number of stamps sold which could be attributed to factors such as discontinued use of cigarettes due to health related issues or to the recent increase of the federal cigarette tax. There has been a slight increase in the amount of tax collected on other tobacco products, which may be attributed to public use of other tobacco products such as pipe tobacco, used as roll you own tobacco or purchasing little cigars which are similar in appearance to cigarettes but taxed at a lower federal tax rate. Each year the contributing factors to any decrease in the amounts deposited to the accounts could change and they may not be easily identified. It might be beneficial to add language that would require DOR to consult with the Department of Health in making the determination on what to attribute any decreases to.

149.018.5 - The department requests clarification of who is to make the distributions to the Tobacco Use Prevention and Quit Assistance Account, to the Public Education Account and the Public Higher Education Account.

149.018.10 - Imposes the taxes on existing inventory of any person licensed under Chapter 149. Retailers are not required to be licensed under Chapter 149. It is unclear if licensees who also operate retail establishments will be required to remit the tax increase on the product held by their retail operation. This legislation would appear to single out those retailers who happen to have a license and would not be inclusive of all other retailers. By only targeting those licensed under Chapter 149 for payment of the tax increase of in stock inventory, it opens up the possibility for stockpiling by other large retailers and allowing them to reap a windfall after the tax increase takes effect. In addition stockpiling of cigarettes could result in stamp shortages by DOR.

196.1023.4 –This appears to requires non-participating manufacturers to post a bond if its cigarettes were not sold in the state during any one of the four preceding calendar quarters, if it or any person affiliated with it failed to make a full and timely escrow deposit or if it or any person affiliated with it was removed from any states directory during any of the five preceding calendar years. This will require continual research to determine if any non-participating manufacturers meet the conditions for a bond. Quarterly escrow deposits must be made within 30 days after the end of each quarter

under section 196.1003.1(4). This legislation appears to require a non-participating manufacturer to post a bond 10 days before the start to the next quarter in order to be listed in the directory for the next quarter. These two requirements appear to be in conflict with each other. In addition the department does not receive information from wholesalers regarding units sold until the 20th of each month. The department will not be able to determine if a bond is required 10 days before a new quarter begins because not all of the information regarding sales will be received more than 10 days before the start of the quarter.

The department recommends adding language to allow the department to promulgate rules in order to carry out the provisions of sections 149.011 to 149.215 or at least to cover the new section 149.018.

Officials from the **Department of Social Services** indicated:

This initiative petition seeks to impose an additional tax on tobacco products. The additional tax is 3.65¢ per cigarette, 25% of the manufacturer's invoice price for roll-your-own tobacco, and 15% of the manufacturer's invoice price for all other tobacco products. The tax is effective January 1, 2013.

The state may retain up to 1.5% of the total collected to cover the additional actual costs incurred by the state in collecting and enforcing the new taxes.

The petition creates the Health and Education Trust Fund for deposit of the remaining additional taxes collected. Money in the fund shall be credited to three separate accounts:

- Tobacco Use Prevention and Quit Assistance Account (20%);
- Public Education Account (50%); and
- Public Higher Education Account (30%).

The General Assembly may appropriate up to 1/5th of 1% of the Tobacco Use Prevention and Quit Assistance Account to the Attorney General and other state agencies for the purpose of enforcing and administering the Master Settlement Agreement.

Tax proceeds can be used only for the purposes stated in the initiative.

On an annual basis, the Director of the Department of Revenue must determine whether the new taxes imposed have directly caused a decrease in tobacco consumption, thereby causing a reduction in the amount of moneys collected and deposited into the Fair Share Fund, the Health Initiatives Fund (HIF), or the state school moneys fund. If this is the case, the Department of Revenue must transfer from the Health and Education Trust Fund to these three funds an amount equal to the amount of money that were not collected and deposited into those funds because of the taxes imposed by this initiative. Transfers are

limited to 3% of the total moneys collected from the additional tobacco tax imposed by this initiative.

The department currently receives money from the Health Initiatives Fund. Theoretically, the Health Initiatives Fund should be made whole by this transfer and there would be no fiscal impact to their department.

The proposal also creates the Missouri Healthy Families Commission to administer the activities funded by the Tobacco Use Prevention and Quit Assistance Account. The department may designate a non-voting, ex officio representative to the Board of Directors of the Commission. They do not expect a significant fiscal impact due to this provision.

The balance of the proposal concerns tobacco stamps affixed to tobacco products and so-called non-participating manufacturers. These provisions have no impact the their department.

Officials from the **Governor's office** indicated there should be no added costs to their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there is no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This proposal imposes an additional tax of 3.65¢ per cigarette (73¢ per pack of 20); levies an additional 15% tax on other tobacco products (OTP); levies an additional tax of 25% on newly-defined "roll-your-own" products; changes the compensation rate for wholesalers; and requires non-participating manufacturers to post a bond. The changes are effective January 1, 2013.

New monies are deposited into the Health and Education Trust Fund and allocated as follows:

- 1) Tobacco Use Prevention and Quit Assistance Account (20%);
- 2) Public Education Account (50%);
- 3) Public Higher Education Account (30%).

The Missouri Healthy Families Commission is created to administer the Tobacco Use Prevention and Quit Assistance Account. The Commission is assigned to the Department of Health and Senior Services for budget and reporting purposes. The nine member commission is appointed by the Governor with advice and consent of the Senate.

The Public Education Account is appropriated to DESE for distribution to school districts with at least 25% of the money to be used in direct classroom expenditures.

The Public Higher Education Account is distributed to public colleges and universities in proportion to the total base operating appropriations for all public colleges and universities in the preceding fiscal year.

The proposed amendment to the Revised Statutes of Missouri should not result in additional costs or savings to the Office of Administration should it be approved by the voters. However, there is a statewide impact on revenues to the state.

The Division of Budget and Planning (BAP) calculates the impact of the cigarette tax increase by estimating the quantity of packs currently sold, applying the midpoint formula for elasticity to estimate the new quantity of packs, then calculating increased revenues.

BAP notes the following:

1. BAP estimates the current retail price of one cigarette pack is \$4.50 = \$4.33 price + \$0.17 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. The website "Tobacco Free Kids" estimates the average cigarette tax as \$1.46 per pack, as of June 28, 2011.¹ A tax of \$0.90 (the proposed \$0.73 plus the existing tax of \$0.17) would be below this average, but would exceed the tax rate of four neighboring states.
3. State cigarette taxes in FY11 totaled \$89,965,910, according to the SAM II Data Warehouse.²
4. "Elasticity" is the ratio of the change in quantity sold to the change in price. The CDC estimates the cigarette price elasticity as -0.4,³ which suggests a 4% drop in sales for each 10% increase in cost. However, research by Goolsbee (2004)⁴ demonstrates the elasticity for state cigarette taxes likely exceeds -1.2, and could exceed -2.0, depending on internet access.
5. Given the above information, BAP estimates the elasticity at -0.8 for this analysis.
6. This analysis uses the midpoint-method to estimate the new quantity (Q2) of cigarette packs taxed as a result of the tax increase:
$$E = \{(Q2-Q1) / \text{AVG}(Q2,Q1)\} / \{(P2-P1) / \text{AVG}(P2,P1)\}$$

Based on this information, BAP estimates increased cigarette tax revenues of \$332.4M annually (see Table 1).

Similarly for the increased OTP tax:

¹ <http://www.tobaccofreekids.org/research/factsheets/pdf/0222.pdf>, accessed November 22, 2011.

² Data warehouse accessed September 21, 2011

³ http://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm, accessed September 21, 2011.

⁴ <http://faculty.chicagobooth.edu/workshops/AppliedEcon/archive/pdf/goolsbee.pdf>, accessed September 21, 2011

1. BAP estimates the current retail price of one “unit” of tobacco is \$4.50 = \$4.09 + \$0.41 excise tax. Prices vary substantially depending on brand and packaging. This analysis does not include additional impacts of any retail sales taxes.
2. BAP estimates the elasticity as -0.8, as above, and uses the midpoint formula, as above.

Based on this information, BAP estimates increased OTP taxes of \$19.5M annually (see Table 2).

BAP notes that currently, "roll-your-own" products are taxed as an OTP product. However, BAP does not have data on what proportion of OTP sales would qualify as "roll-your-own", and thus for the higher proposed tax rate. Therefore, there will also be an additional unknown increase in revenues resulting from this source.

The proposal directs the DOR to estimate the decreased consumption of cigarettes and OTP as a result of this proposal, and then to hold existing dedicated funds harmless. This analysis estimates a decrease of 60M cigarette packs. At 17¢ per-pack, this implies the DOR would need to transfer an estimated \$10.2M of the new cigarette revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 10.0M. Similarly, this analysis estimates a decrease of 3.7M "units" of OTP sales. At an estimated tax rate of 41¢, this suggests a transfer of \$1.5M of the new OTP revenues into existing funds. However, this transfer cannot exceed 3% of the new revenues, which is estimated at 0.6M.

BAP defers to DOR for impacts of the changes to the compensation rate and bond postings; and to the Attorney General’s Office on the impacts in changes related to the Master Settlement Agreement.

Table 1.

Cigarettes	Current (FY11)	New
Tax (per pack)	\$0.17	\$0.90
Estimated Cost Per Pack	\$4.50	\$5.23

Estimated Packs with Tax Increase, using Midpoint Formula

FY11 Revenues	\$89,965,910
Q1	529,211,235
P1	\$4.50
P2	\$5.23
Estimated Elasticity (see notes)	-0.8
Q2	469,281,167
Total Revenues	\$422,353,050
Increased Revenues	\$332,387,140

Table 2.

OTP	Current (FY11)	New
Tax (per unit)	10%	25%
Estimated Retail Cost Per Unit	\$4.50	\$5.11
Estimated Wholesale Cost Per Unit	\$4.09	
Estimated Units with Tax Increase, using Midpoint Formula		
FY11 Revenues		\$15,551,490
Estimated Current Wholesales		\$155,514,900
Q1		38,023,203
P1		\$4.50
P2		\$5.11
Estimated Elasticity (see notes)		-0.8
Q2		34,328,641
Estimated New Wholesales		\$140,404,142
Total Revenues		\$35,101,036
Increased Revenues		\$19,549,546

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of their city but authorize state taxes and state activities, therefore, they have no fiscal impact on the city.

Officials from the **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, if this results in an increase in general revenue for the State of Missouri, there may be a positive fiscal impact on their college since the majority of their state appropriations come from general revenue funds.

Officials from **Metropolitan Community College** indicated this legislation would have a positive, but unknown, fiscal impact on their college.

The **State Auditor's office** estimated annual audit costs required in the proposal would be up to an estimated \$40,000.

Robert L. Hess, II provided information as a proponent of this initiative petition.

As set forth in the enclosed analysis, tobacco use causes approximately \$2.13 billion in annual health care expenditures in Missouri. Smoking specifically causes approximately \$532 million in annual costs for the Missouri Medicaid program. The initiative petition would increase the tax on cigarettes by \$0.73 per pack, would increase the tax on roll-your-own tobacco by 25%, and would increase the tax on other tobacco products by 15%. Those tax increases would raise over \$283 million in new state revenue to help adults stop smoking, to keep kids from starting smoking, and to support public education and higher education.

In addition to raising new revenue, the tax increase would have an immediate public health benefit. Each 10% cigarette price increase reduces youth smoking by 6.5%. Each 10% cigarette price increase reduces adult smoking by 2%. The total expected reduction in smoking consumption as a result of a 10% price increase is 4%. It is conservatively estimated that the initiative petition would decrease youth smoking by 12% in Missouri and keep 45,700 kids in Missouri from becoming addicted adult smokers and help 28,200 current adult smokers quit. Twenty two thousand (22,000) Missouri residents would be saved from premature smoking-caused deaths.

There would also be a fiscal benefit to the citizens of the state from the improved public health. In the first five years, there would be more than \$30 million in savings from fewer smoking-related pregnancies, births, heart attacks and strokes. The long term savings would be approximately a billion dollars.

**NEW REVENUES, PUBLIC HEALTH BENEFITS & COST SAVINGS
FROM A 73-CENT CIGARETTE TAX INCREASE IN MISSOURI**

Current state cigarette tax: 17 cents per pack (51st among all states)
Smoking-caused costs in Missouri: \$7.61 per pack

Annual healthcare expenditures in Missouri directly caused by tobacco use: \$2.13 billion
Smoking-caused state Medicaid program spending each year: \$532.0 million

New Annual Revenue from Increasing the Cigarette Tax Rate by 73 Cents Per Pack: \$265.7 million

Additional Revenue from Raising OTP Rates to 25% Manufacturer's Price: \$17.3 million

New Annual Revenue is the amount of additional new revenue over the first full year after the effective date. The state will collect less new revenue if it fails to apply the rate increase to all cigarettes and other tobacco products held in wholesaler and retailer inventories on the effective date.

<u>Projected Public Health Benefits from the Cigarette Tax Rate Increase</u>	
<i>Percent decrease in youth smoking:</i>	12.0%
<i>Kids in Missouri kept from becoming addicted adult smokers:</i>	45,700
<i>Current adult smokers in the state who would quit:</i>	28,200
<i>Smoking-affected births avoided over next five years:</i>	7,950
<i>Missouri residents saved from premature smoking-caused death:</i>	22,000
<i>5-year health savings from fewer smoking-affected pregnancies & births:</i>	\$13.5 million
<i>5-year health savings from fewer smoking-caused heart attacks & strokes:</i>	\$17.4 million
<i>Long-term health savings in the state from adult & youth smoking declines:</i>	\$1.0 billion

- Tax increases of less than roughly 25 cents per pack or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).
- Raising state tax rates on other tobacco products (OTPs) to parallel the increased cigarette tax rate will bring the state more revenues, public health benefits, and cost savings (and promote tax equity). With unequal rates, the state loses revenue each time a cigarette smoker switches to cigars, RYO, or smokeless. To parallel the new \$0.90 per pack cigarette tax, the state's new OTP tax rate should be at least 30% of wholesale

price with minimum tax rates for each major OTP category linked to the state cigarette tax rate on a per-package or per-dose basis.

Needed State Efforts to Protect State Tobacco Tax Revenues

Having each of the following measures in place will maintain and increase state tobacco tax revenues by closing loopholes, blocking contraband trafficking, and preventing tax evasion.

State tax rate on RYO cigarettes equals the state tax rate on regular cigarettes	Yes
State tax rates on other tobacco products match the state cigarette tax rate	Yes
State definitions of "cigarette" block cigarettes from wrongfully qualifying as "cigars"	No
State definitions of "tobacco product" reach all tobacco products	No
Loopholes for the new generation of smokeless products (snus, tablets, etc.) closed	No
Minimum taxes on all tobacco products to block tax evasion and promote tax equity	No
"High-tech" tax stamps to stop counterfeiting and other smuggling and tax evasion	No
Retailers lose license if convicted of contraband trafficking	Yes
Street sales and mobile sales of cigarettes and other tobacco products prohibited	Yes
Non-Tobacco nicotine products without FDA approval banned	No

More information available at

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

Campaign for Tobacco-Free Kids 10.07.10 / Ann Boonn, October 26, 2011

Explanations & Notes

Projections are based on research findings that each 10% cigarette price increase reduces youth smoking by 6.5%, adult rates by 2%, and total consumption by 4% (adjusted down to account for tax evasion effects). Revenues still increase because the higher tax rate per pack will bring in more new revenue than is lost from the tax-related drop in total pack sales.

The projections incorporate the effect of both ongoing background smoking declines and the continued impact of the 61.66-cent federal cigarette tax increase (effective April 1, 2009) on prices, smoking levels and pack sales.

These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and lower net new revenues) from possible new smuggling and tax evasion after the rate increase and from fewer sales to smokers or smugglers from other states. For ways that the state can protect and increase its tobacco tax revenues and prevent and reduce contraband trafficking and other tobacco tax evasion, see the Campaign for Tobacco-Free Kids factsheet, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over the lifetimes of persons who stop smoking or never start because of the rate

increase. All cost and savings in 2004 dollars. Projections will be updated when new relevant data or research becomes available.

Ongoing reductions in state smoking levels will, over time, gradually erode state cigarette tax revenues (in the absence of any new rate increases). But those declines are more predictable and less volatile than many other state revenue sources, such as state income tax or corporate tax revenues (which can drop sharply during recessions). In addition, the smoking declines that reduce tobacco tax revenues will simultaneously produce much larger reductions in government and private sector smoking-caused costs. See the Campaign for Tobacco-Free Kids factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, <http://tobaccofreekids.org/research/factsheets/pdf/0303.pdf>.

For other ways states can increase revenues (and promote public health) other than just raising its cigarette tax, see the Campaign factsheet, *The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs*, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>.

For more on sources and calculations, see
<http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf>

Additional Information on Tobacco Product Tax Increases

Raising State Cigarette Taxes Always Increases State Revenues and Always Reduces Smoking, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

Responses to Misleading and Inaccurate Cigarette Company Arguments Against State Tobacco Tax Increases, <http://tobaccofreekids.org/research/factsheets/pdf/0227.pdf>.

State Cigarette Excise Tax Rates & Rankings,
<http://tobaccofreekids.org/research/factsheets/pdf/0097.pdf>.

Top Combined State-Local Cigarette Tax Rates (State plus County plus City),
<http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

State Cigarette Tax Increases Benefit Lower-Income Smokers and Families,
<http://tobaccofreekids.org/research/factsheets/pdf/0147.pdf>.

The Best Way to Tax Smokeless Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0282.pdf>.

The Problem with Roll-Your-Own (RYO) Tobacco,
<http://tobaccofreekids.org/research/factsheets/pdf/0336.pdf>.

How to Make State Cigar Tax Rates Fair and Effective,
<http://tobaccofreekids.org/research/factsheets/pdf/0335.pdf>.

State Benefits from Increasing Smokeless Tobacco Tax Rates,
<http://tobaccofreekids.org/research/factsheets/pdf/0180.pdf>.

The Case for High-Tech Cigarette Tax Stamps,
<http://tobaccofreekids.org/research/factsheets/pdf/0310.pdf>.

State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion, <http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>.

The Many Ways States Can Raise Revenue While Also Reducing Tobacco Use and Its Many Harms & Costs, <http://tobaccofreekids.org/research/factsheets/pdf/0357.pdf>

For questions or model legislation, please contact factsheets@tobaccofreekids.org.

For all TFK factsheets on tobacco tax increases, see

http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, the Missouri Senate, Cass County, Cole County, Greene County, Jasper County, St. Louis County, the City of Cape Girardeau, the City of Mexico, the City of St. Joseph, the City of St. Louis, Cape Girardeau 63 School District, Hannibal 60 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

Estimated additional revenue to state government is \$283 million to \$423 million annually with limited estimated implementation costs or savings. The revenue will fund only programs and services allowed by the proposal. The fiscal impact to local governmental entities is unknown. Escrow fund changes may result in an unknown increase in future state revenue.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-08)**

Subject

Initiative petition from Jewell Patek regarding a proposed constitutional amendment to Article III. (Received January 17, 2012)

Date

February 3, 2012

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Callaway County**, **Greene County**, **Jackson County Legislators**, **St. Louis County**, the **City of Jefferson**, the **City of Kansas City**, the **City of Mexico**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated there will be no fiscal impact on their department.

Officials from the **Department of Economic Development** anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated if the adoption of the measure results in a reduction of fee revenue from consumer credit entities, the department anticipates it would expend a correspondingly smaller amount to regulate these entities.

This petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated there will be no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition has no impact on their department.

Officials from the **Department of Social Services** indicated there is no impact to their programs.

Officials from the **Governor's office** indicated there should be no added costs to the their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there will be no fiscal impact to their office.

Officials from **St. Louis County** indicated:

The APR cap of 13.99% for the loan or use of money would not affect St. Louis County according to the county's Treasurer.

No savings are expected as a result of this proposal.

There would be no additional costs incurred as a result of this proposed change.

No losses are anticipated if Initiative Petition 12-08 were to pass.

Officials from the **City of Jefferson** indicated they expect no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of the city and therefore, has no fiscal impact on the city.

Officials from the **City of St. Joseph** indicated there will be no impact on the city one way or the other.

Officials from **Rockwood R-VI School District** indicated as it is written, they see no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated based on the information presented, there appears to be no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated this petition would have no direct fiscal impact on their college.

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Public Safety**, the **Department of Transportation**, the **Missouri Senate**, **Callaway County**, **Greene County**, **Jackson County Legislators**, the **City of Mexico**, the **City of St. Louis**, the **City of Springfield**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **University of Missouri**, and **St. Louis Community College**.

Fiscal Note Summary

The proposal is estimated to result in no direct costs or savings to state and local governmental entities.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-09)**

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article IX. (Received January 18, 2012)

Date

February 6, 2012

Description

This proposal would amend Article IX of the Missouri Constitution.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Cass County**, **Jackson County Legislators**, **St. Louis County**, the **City of Cape Girardeau**, the **City of Kansas City**, the **City of Kirksville**, the **City of Springfield**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, **University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, **Truman State University**, and **University of Missouri**.

The **Missouri Association of School Administrators** (submitted by **Roger Kurtz, Executive Director**) provided information as a opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Department of Agriculture** indicated there will be no fiscal impact on their department.

Officials from the **Department of Economic Development** anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated:

Sections 3(d) and (f)

These provisions carry eventual unknown costs that could be significant to the Department of Elementary and Secondary Education and to local county governments. While the language is declarative, no mention is made to enforcement of the provision. When the language indicates "No school district receiving any state funding or local tax revenue funding shall....," it implies enforcement of the provision. The department cannot withhold funding without substantiated cause. In order for the department to show substantiated cause, it must have a method to collect and review pertinent data that would support its actions. This would require additional staffing and/or data system development and maintenance (a number not yet determined) to collect and analyze contracts for each teacher in the state to verify duration of contracts on an annual basis.

Further, it would be necessary for the department to report districts determined to be in violation to one hundred-fourteen counties and one city in Missouri. Most counties have multiple school districts and many school districts are in multiple counties. It would be incumbent upon the counties then to put mechanisms into place to suspend payments to the respective violators of this provision. The cost to the counties and one city to put this system into place would be significant statewide. Additionally, counties would also face the possibility of a significant increase in litigation exposure relative to the withholding of funds.

While it is impossible to determine the exact amount of cost, the potential cost to the state, counties and one city driven by the need to assure that funds are not distributed in violation of this section would be in the millions of dollars.

Section 3(g)

If it is determined that the state shall develop and implement evaluation technical assistance, then costs could be similar to those incurred by the state of Florida's public school system model totaling \$4.5 million. If state assessments are required to provide student performance data for all teachers, additional state costs could be incurred.

The exact cost of this provision is also difficult to calculate. This provision calls for each district to develop its own local performance standards for teachers "to retain, remove, promote, demote and set compensation." In effect this would establish 520 accountability systems and thereby set aside the Missouri Accountability Standards established by the State Board of Education. Local districts would incur significant cost

in the aggregate for establishing customized accountability systems which counter the concept of statewide educational goals. Such systems would have difficulty meeting validity tests which could increase the likelihood of litigation cost.

For the department to establish assessments that could be used statewide, a significant increase in test development and ongoing administrative expenses would be required. Funds have not been available to allow for expanded assessment capabilities that would allow districts to move to a more thorough collection of student performance data. The requirement that all staff be assessed based upon student performance would demand that assessment instruments be in place to measure student success in all cases where “teachers” are employed. While the department has not done research to determine the cost and scope of assessments that would be required to address this provision, it can be documented that the annual cost of assessments for the limited testing now done is in excess of \$10 million. This number would grow exponentially if the department was to assure all content areas, grade levels, and instructional support areas were assured valid assessments of student performance.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated there will be no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Social Services (DSS)** indicated this initiative petition has some relevance to their department as the Division of Youth Services (DYS) employs teachers in schools operated in its facilities. Also, for at least some purposes, including the school foundation formula, DYS is considered a school district. Teachers employed

by DYS are merit system employees. Therefore, we are trying to work out any conflict that may exist between being an "at will" employee of a school district and a merit system employee.

Section 3(d) - Currently, teachers and other educational staff are employed by the Department of Social Services in the DYS as employees of the Missouri Merit System under Chapter 36 State Personnel Law (Merit System). To make these staff "at will" employees, the incumbents in these positions would be required to resign or be terminated from (if they did not voluntarily resign) their merit positions and be placed in unclassified positions not covered under the Merit System. This could affect as many as 150 DSS employees in our Academic Teacher, Special Education Teacher and Vocational Teacher job classifications.

A change in the law (Chapter 36) and state personnel regulations by the Office of Administration would have to be completed to allow DSS to change these merit positions to unclassified positions. Only 1% of a division's positions can be filled as unclassified appointments. Changing 150 employees from merit to unclassified would cause the division to exceed the maximum and they would be unable to fill all the necessary positions creating a negative impact upon the division, clients, and provision of critical services to the youth in DYS custody. To allow all impacted positions to be filled as unclassified, there would also have to be a change in the state personnel regulations 1CSR 20-1.040(2) to allow these DYS job titles to be established and filled without regard to provisions of the State Personnel Law. In other words, these positions would be exempt from the department's one percent restriction of unclassified job titles.

This legislation is unclear which job titles would be included in "certificated staff." Based on discussions with the Department of Elementary and Secondary Education (DESE) Certification Unit, the assumption is being made that "certificated staff" refers to teachers that hold tenure in the classroom per Department of Education definitions. However, other staff in the DYS program holds certifications (e.g., nurses, psychologists, counselors). The definition of "certificated staff" needs to be clearly defined and the fiscal impact could change depending on that.

Section 3(e) – This implies that these staff would be contracted; however, the agency believes it could meet the requirements of "at will" by using the unclassified service.

Section 3(f) - The job titles used in DYS are bargaining unit eligible classifications for the Department of Social Services under the Communication Workers of America (CWA) Local 6355, AFL-CIO. According to the CWA agreement, seniority, as defined in Article 17 of the Agreement, is used as the determining factor in all requests for promotions when all other work related factors are equal. There is a savings clause that states that if a federal or state law or regulation passes that invalidates a portion of the agreement, the remaining agreement would remain in place. However, the agency would also need to address whether the job classifications, if they would become unclassified, are still appropriate for the DSS/CWA bargaining unit.

Section 3(g) – To set performance standards for teachers for promotions and pay raises based on quantifiable student performance data would put the DYS teachers at a disadvantage as their students stay in the facilities for a short time, not necessarily a normal school year. This could cause an unreasonable timeframe for the student's performance to be measured resulting in inaccurate performance data.

There is no known fiscal impact from a human resource perspective for this petition.

Officials from the **Governor's office** indicated there should be no added costs to the their office if this amendment is approved by the voters.

Officials from the **Missouri House of Representatives** indicated there will be no fiscal impact to their agency.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this petition is passed by the voters.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Kansas City** indicated this proposal does not address the activities of the city and therefore, has no fiscal impact on the city.

Officials from the **Cape Girardeau 63 School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution to the Cape Girardeau School District. While our analysis focuses on the impacts to our district - we share the same concerns voiced by Mr. Roger Kurtz in his submission to your office regarding the impact of the proposed amendment.

We believe this Amendment has wide ranging financial impacts for Local Government entities who would be required constitutionally to develop expertise on school district evaluation policies before releasing local funds, our analysis will focus the specific costs of the impact of developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g) of the amendment using data from Missouri and similar proposals from Colorado as a basis for analysis.

In general the proposed amendment's costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject, to be used as a basis for evaluation of educators.

To acquire the incredible amount of data necessary to fulfill this goal is a herculean task - a proven and statistically reliable test for every subject must be created and administered for every grade level to every student. Missouri has developed test for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the costing of testing for every child in every subject.

The Cape Girardeau School District:

The Cape Girardeau School District is an accredited district located in Cape Girardeau County, Missouri. The district serves a diverse population.

Our district contains six elementary schools, one junior high-school and one high-school, a total enrolment of 4,122 and 425 teachers.

Enrollment (Prior Year)	Schools	Cert. Staff	Residents	Non-Res.	Total
Elementary Schools	5	163	1,646	122	1,768
Middle Schools	1	55	583	0	583
Jr. High Schools	1	60	575	1	576
High Schools	1	147	1,153	42	1,195
Total	8	425	3,957	165	4,122

Test Development and Implementation Costs and Considerations

Mr. Ellinger's submission requires that every school district develop a set of locally based performance standards a majority of which is based on "quantifiable data":

3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria.

Our assumption is the state would develop a series of "template" standards of evaluation and guide the development of testing tools that could be utilized by our district.

Development:

Test development is a prohibitively expensive undertaking for any school district we would be unable to fund the development of tests to meet the reliability, validity and scope required by this proposal.

Any school district will require defensible research-based measures provided by the state, given the results of these assessments would be the major factor in employment decisions and likely policy makers will later use the data to make funding or accreditation decisions.

Currently, the state of Missouri provides assessments in only two subjects, math and communication arts, for students in grades 3-8 and one year in high school. Science tests are available for one elementary, one middle school grade, and high school biology.

The state paid for the development of the tests, including item and task specification, item authoring, bias and sensitivity checks, psychometric work, piloting, lay out and printing for the paper based 3-8 tests, and computer adaptive work for the high school tests.

The state pays for the scoring of these tests, at .06 per test. Until the recent budget crisis, the cost to score was higher, as Missouri's assessments were not limited to multiple-choice questions as they are now. Previous assessments included constructed response questions where students wrote in short answers, as well as performance

events where students wrote an essay or did multi-step problem solving, such as figuring the cost of installing a chain link fence for a yard of a given dimension.

In addition, tests need ongoing revisions through the use of parallel questions, so the questions are not the same from year to year, but the knowledge and skill tested remains the same.

In recent years, this annual revision has been limited due to budget restraints. Constructed response items and performance events have been removed from the assessments. In addition, budget cuts have forced DESE to pay the cost of current year assessments out of the next years' funding.

In order to evaluate teachers based on student assessments, you must first have baseline achievement data on each student for that subject. Current growth models can only provide data for 4th - 8th grade students in math and communication arts, because there is not baseline data for third graders. High school courses each consist of distinct content and scores on one course cannot be considered a starting point for another with the possible exception of Algebra I and II.

Massachusetts began to use student growth measured by state assessments in teacher evaluations, and found current assessments only produced data for 17% of teachers. The language in 3 (g) would require annual assessments of pre-K to 8th grade students in every subject. High school courses would require pre-tests at the beginning of the course as well as end of course tests to measure student achievement growth in each course offering.

The following list of courses was taken from the Missouri School Improvement Program 4 Resource Standards, found at www.dese.mo.gov.

Table 1 School Improvement Courses

	Elementary Courses	Middle School Courses
1	Math by grade	Math by grade
2	Reading by grade	Reading by grade
3	Language Arts by grade	Language Arts by grade
4	Social Studies/History by grade	Social Studies/History by grade
5	Science by grade	Science by grade
6	Music by grade	Vocal Music
7	Art by grade	Instrumental Music
8	Physical Education by grade	Art
9	Foreign Language by grade	Physical Education by grade
10	Health by grade	Health
11	Career Awareness by grade	Foreign Language
12	Instrumental Music I and II	Speech
13	Library Skills by grade	Algebra 1
14		Agriculture
15		Family and Consumer Science
16		Industrial Technology
17		Computer Literacy
18		Career Education

Middle school students are required to take the four core subjects, physical education, health, art and music. Some students will also have a stand-alone reading course. This totals nine subjects for one year. Seventh and eighth graders must in addition have access to four exploratory classes, bringing the total courses for them to 13. Some of these courses would only last for 6 weeks, others may last a semester.

Development Costs:

Table 2 illustrates the costs associated with developing new testing regimes from previous RFPs on Smarter Balanced Assessment Consortium website. **We would expect the state to bear the cost of developing these testing mechanisms. Indeed no testing regime can be considered viable without significant state resources.**

Table 2: RFP for Smarter Balanced Assessment

PROJECT	DETAILS	BID COST Estimate
SBAC RFP No. 14	SBAC Pilot Item/Task/Stimulus Research Development and Reviews	\$19,000,000
SBAC RFP No. 07	Item Authoring and Item Pool Application	\$1,988,000
SBAC RFP No. 09	Test Blueprint and Computer Adaptive Test Specifications	\$1,457,721
SBAC RFP No. 08 1-2012 to 10-2013	Participation and Training Materials	\$739,392
SBAC RFP No. 05	Psychometric Services	\$3,500,000
SBAC RFP No. 06	Development of Accessibility and Accommodations Policies and Materials	\$930,000
SBAC RFP No. 04	SMARTER Balanced Assessment Consortium Request for Proposals to Develop Item and Task Specifications, Style Guide, Bias and Sensitivity Guidelines, and Accessibility and Accommodations Guidelines	\$1,500,000
SBAC RFP No. 03	SMARTER Balanced Assessment Consortium II Systems Architecture (word)	\$2,000,000
SBAC RFP No. 02	IT Readiness Tool for SBAC and PARCC (word)	\$500,000 (2011-14)
SBAC RFP No. 01	Smarter Balanced Assessment Communications RFP	\$2.2 million (2011-14)
RFP 2010-07 (SBAC RFP)	Comprehensive Assessment Systems Grant - Project Management Partner	Not included

Total for Math and CA		\$33,815,113 for 14 tests
<i>Cost per test to develop</i>		<i>\$2,415,365</i>
Total FY 2013 Cost for 481 new tests		\$1,161,790,565

Administration Costs:

Administering assessments for pre-K through 2nd grade students is significantly more costly for school districts, as much of this testing must be administered one-on-one. This means the district hires a substitute for the several days it takes the classroom teacher to complete individual student assessments.

On average, Missouri high school students take seven classes a day, one to three of which are semester courses. Older students take more semester courses.

Cost to districts: Cost estimates are based on current charge districts for MAP tests, and testing every student in every subject.

Table 3: Average cost of MAP testing to the Cape Girardeau School District from the State of Missouri

Grade	Total students	Cost per test	Cost to test one subject	Number of subjects	Statewide total
K-6	2,351	\$1.80	\$4,231.80	9	\$38,086.20
7-8	576	\$1.80	\$1,036.80	7 x 2 tests	\$14,515.20
9-12	1,195	\$1.80	\$2,151.00	8 x 2 tests	\$34,416.00
	FY 2013 New costs and reoccurring FY2014				\$87,017.40

Teacher Evaluation Assumptions and Data:

In developing the cost estimates contained we relied on the experiences other states have had in creating a similar evaluation model prescribed in the proposed amendment. Specifically, the removal of teacher experience as part of compensation 3(f) and the development of new evaluation systems for educators on the district level (3g):

3(f) Notwithstanding any provisions of this constitution, no school district which uses seniority or duration of employment as a basis, in whole or in part, to retain, remove, promote or demote teachers shall receive any state funding or local tax revenue.

3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria.

While our analysis will cite information from multiple states - the recent experience of Colorado in developing a remarkably similar system of teacher evaluation and estimating the implementation costs serves as a good exemplar of what Missouri policy makers and budget analysts should expect as they are required to implement sweeping changes to teacher evaluation and compensation. Additionally CO and MO have similarly sized public education systems - and when

ranked nationally are very close in size and scope (See table 4 below).

Table 4: Similarities in the size of public education systems in MO and CO*

	Missouri	National Rank (MO)	Colorado	National Rank (CO)
Average Daily Attendance (2010)	835,780	19	771,938	21
Number of Public High School Graduates '09-'10	62,342	20	46,811	22
Number of Public School Teachers K-12	67,882	14	48,960	23

*NEA Research. (2010). Rankings & Estimates Rankings of the States 2010 and Estimates of School Statistics 2011.

http://www.nea.org/assets/docs/HE/NEA_Rankings_and_Estimates010711.pdf

Salary data used in this analysis will assume average pay for a Missouri teacher at \$45,317 or 48th in the nation and 81.5% of the national average.

The Colorado Experience:

In May of 2010, Colorado passed Senate Bill 191 which completely changed how public-school educators were evaluated in Colorado. **At the core of the proposal were two policy objectives similar to those in 3(f) and 3(g)** of the current proposal: 1) the removal of duration of employment as a basis of evaluation in whole or in part and 2) replaced with a model where quantifiable student growth/achievement represents at least 50% of the total performance by quantifiable and objective standards. Table 7 below places the proposals for quantifiable measurement side-by-side for comparison:

Table 5: Comparison of Measurement Standard of Ellinger
Proposal v. SB 191 Colorado

	<u>Ellinger Missouri Proposal</u>	<u>Senate Bill 191 Colorado</u>
Side-by-side comparison of measurement standards from MO and CO	"3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria. "	"Procedures for prioritizing or weighting measures of performance that ensure that measures of student growth represent at least 50 percent of total performance and are prioritized by technical quality, and that measures of professional practice are prioritized by local objectives. "
Source	*Ellinger Submission. (January 17, 2012). Pg 3	* Colorado State Board of Education. Report & recommendations; submitted to the Colorado State Board of Education pursuant to SB 10-191. (April 13, 2011). Pg 18 Available online: http://www.cde.state.co.us/EducatorEffectiveness/downloads/Report%20&%20appendices/SCEE_Final_Report.pdf

We believe the process of estimating costs to local school districts used by the Colorado State Board of Education will shed light on the Ellinger proposal and permit an estimate of the fiscal impact to the Cape Girardeau School District.

Translating the Colorado Experience to Missouri:

For purpose of analysis we will assume the following role for the state:

- 1) Create an exemplar template and evaluation system with a resource bank of evaluation tools.

- 2) Provide student, teacher, and parent survey instruments and analysis of results to districts.
- 3) Provide a definition of what constitutes a qualified educator for every subject area and grade level.
- 4) Develop materials to support professional development.
- 5) Collect and report evaluation data for the state.

NOTE: None of this is guaranteed or funded under the Ellinger proposal - nor do we attempt in this analysis to associate costs - but it is worth noting that the state would likely need to develop a whole host of example evaluation tools that districts could adopt and such development is likely to be a costly process.

In addition to the items above the state will likely have to develop and provide:

- 1) Assessment tools from the state need to be available to districts in all subjects, at no cost, and resulting data must be reliable and valid. Districts will recognize that they are allowed to create their own unique assessments, but districts will likely want to use defensible research-based measures provided by the state given the implications the data can have on educators and students.
- 2) A valid individual teacher and student tracking system needs to be developed and in place provided by the state. Much of the ability for districts to evaluate teacher performance based on at least "50% quantifiable data" will rely on the ability to correctly identify the teacher of record for each student in each subject area and assign attributable changes in performance to the appropriate teacher.

The state-level responsibilities listed above are essential to any successful implementation of the Ellinger proposal.

Startup Costs:

Certain initial costs are likely to be required at the district level prior to the implementation of the new evaluation system. We assume the burden for implementing the state mandates would fall to the **individual school district**. For example we would have to spend time selecting evaluation tools and measurements from the state templates, set up first time data systems, develop an appeals process, and provide comprehensive training for evaluators and educators. Colorado estimate the effort needed to accomplish these tasks is as follows:

Table 6: One Time Costs for each district:

	Selecting Evaluation Tools and Measurements	One time Data Set Up	Developing Appeals Process	Professional Development for all Staff	Professional Development for Evaluators
<u>District Personnel*</u>					
Superintendent				2 days	30 hours
Assistant Superintendent					30 hours
Director		5 days			30 hours
Trainer				3 days	60 hours
Central Staff					
IT Technician		5 days			
<u>School Personnel*</u>					
Teachers	5% of all teachers, \$100 a day for 5 days			2 days for every teacher	
Committee Teacher Leader	1% of all teachers, \$200 a day for 5 days				
Instructional Coach				2 days for every coach	
Principal				2 days for every principal	30 hours for every principal
<u>District/School Costs*</u>					
Total			\$10,000		

Augenblick, Paslaich, and Associates INC. Costing Out the Resources Implications of SB 10-191 in Colorado School Districts: Prepared for State Council for Educator

Effectiveness. March 2011. Pg 35

Augenblick, Paslaich, and Associates and the Colorado State Board of Education estimate that the initial one-time costs

on average are \$53 per student. Given the comparability of Missouri and Colorado (see table 4) we believe that this estimate is applicable to our school system and may be conservative given our average teacher pay and experience level is higher than Colorado's by about 20%.

Ongoing Costs:

For ongoing costs the computation of new expenses that are above and beyond the current requirement set out by regulation or Missouri statute are considered in this section. As such what follows in this section are:

- 1) Likely tools and measures to be used;
- 2) The new effort and resources needed; and
- 3) The ongoing cost for three categories of teachers, (novice, effective, and ineffective).

When considering such a broad and sweeping change of the Missouri education system the usual disclaimers apply - 1) we are anticipating standards based on our experience with DESE and local school boards - **nothing in this document should be viewed as an endorsement of any system of evaluation,** 2) additionally our estimations are based on our best understanding of the initiative and its implementation in our district, and 3) the cost estimate only the amount to evaluate teachers.

Evaluating Teachers:

To evaluate teachers numerous measurers and tools will need to be developed as well as the standards for apply those tools (including but not limited to):

- Observation with pre/post interview

- Examination of lessons, unit plans, assignments and assessments
- Student and Parent feedback
- Peer observation and feedback.
- Teacher self review and interviews
- Analysis of student data and growth.

While these tools can be used with teachers at all levels of experience and ability - allotments must be made for more time and effort to be spent with teachers based on their experience (or lack thereof) and abilities.

The consulting firm of Augenblick, Paslaich, and Associates concluded that teachers are likely to fall into one of the three categories below and require a differing amount of ongoing supervision and evaluation costs. (SEE APPENDIX A - TABLES I-III for breakdown of evaluation and resources for each population of teachers).

Performance Standard	Per Teacher
Novice*	\$343 (increased training and data analysis)
Effective	\$531 (increased data analysis and frequency of evaluation)
Need Improvement	\$3,783 (increased number of teachers identified that require supervision and remediation)

*Boulder Valley School District. SB 191 and you. April 2011

The Cape Girardeau School Districts commitment to quality has allowed us to recruit a corps of 343 highly qualified.

As such we have adjusted our assumptions as follows:

97% (334 teachers) will fit into the "Effective" category.

2.75% (9 teachers) will qualify as "novice"

Only .25% (1 teachers) will fit into the "need improvement" category.

Fiscal Impacts of 3(f) and 3(g) implementation of proposed evaluation model:

Fiscal Year 2013 - 1st year of implementation: Assumes average costs of \$53 per student and an even population of 4,122 students. Also assumes 1st year evaluation costs (see Table 9).*

Fiscal Year 2014 - 2nd year of evaluation and increased MAP costs.*

*Assumes state development of template systems of evaluation and testing mechanisms.

Table 7: Estimated Cost to Cape Girardeau Public School District for Evaluation

FY 2013		\$ Estimate
Startup Cost assume average of \$53 per student	One time Cost Student K-12 Population of Missouri 22,201 (2012)	4,122 x \$53 = \$218,466.00
FY 2013	Increased MAP Costs (Re-occurring)	\$87,017.40
FY 2013	First Yearly Evaluation: NOVICE evaluation costs	12 x \$343 = \$ 4,116.00

	\$343 *	
	First Yearly Evaluation: NEED IMPROVEMENT evaluation costs \$3,783	1 x \$3,783 = \$3,783.00
	First Yearly Evaluation: Effective \$531	412 x \$531 = \$218,772
Total FY 2013		\$ 452,154.40
FY 2014	Yearly Reoccurring Evaluation: NOVICE evaluation costs \$343 *	12 x \$343 = \$ 4,116.00
	Yearly Reoccurring Evaluation: NEED IMPROVEMENT evaluation costs \$3,783	1 x \$3,783 = \$3,783.00
	Yearly Reoccurring Evaluation: Effective \$531	412 x \$531 = \$218,772
FY 2014	Increased MAP Costs (Re-occurring)	\$ 87,017.40
Total FY 2014		\$ 313,688.40
Total Costs of evaluation program to School District FY 2013-2014		\$765,842.80

*The National Commission on Teaching and America's Future (NCTAF). Report of Teacher Age and Experience by State (2007-2008). Available via: <http://nctaf.org/wp-content/uploads/2012/01/WebAgeandExpbyState07-08.pdf>

Officials from the **Hannibal 60 School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution to the Hannibal School District. While our analysis focuses on the impacts to our district – we share the same concerns voiced by Mr. Roger Kurtz in his submission to your office regarding the impact of the proposed amendment.

We believe this Amendment has wide ranging financial impacts for Local Government entities who would be required constitutionally to develop expertise on school district evaluation policies before releasing local funds, our analysis will focus the specific costs of the impact of **developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Missouri and similar proposals from Colorado as a basis for analysis.

In general the proposed amendment's costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject, to be used as a basis for evaluation of educators.

To acquire the incredible amount of data necessary to fulfill this goal is a herculean task – **a proven and statistically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed test for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the cost of testing for every child in every subject.

The Hannibal School District:

The Hannibal School District #60 is rated "accredited with distinction in performance" by the Missouri Department of Elementary and Secondary Education. Additional accreditation comes from the North Central Association of Colleges and Schools at the career center.

The district features a grade configuration of pre-kindergarten, kindergarten and grades one through five in its elementary schools, grades six through eight in its middle school, and grades nine through twelve in its high school. The area career and technical center is also located on school district property. The district is comprised of five elementary attendance centers including Eugene Field, Mark Twain, Oakwood, Stowell, and Veterans. All elementary schools are organized as pre-kindergarten through fifth grade.

Staff members in the district number 564 including 326 certificated and 238 noncertificated members. Of the 326 certificated staff members, 59.4 percent are at or

above the master's degree level. The average teaching experience level in the district is 12.7 years.

Special programs in early childhood education and parenting, guidance and counseling services, health programs, and special education programs are a vital part of the total program of the Hannibal School District. Also provided are remedial services, both during the school term and during a summer school program. A summer enrichment program is also offered to all students. In addition to these programs, a strong well-rounded, extracurricular program including athletics, performing and visual arts, and publications is offered by the district.

There is a strong relationship between the school and community as evidenced by strong parental involvement, support, and partnership with community organizations. Each elementary and the middle school have active parent-teacher organizations and strong booster organizations exist for band, chorus, and athletics. Success in the activity programs and competitions is a source of community pride.

ENROLLMENT TRENDS

The school district enrollment has been steady the past ten years. Enrollment projects indicate a slight but steady increase for the next ten years. There is a possibility of a greater increase in population of school age children if rapid economic growth in the Hannibal area occurs.

OTHER DISTRICT INFORMATION AND FACTS:

- budget for 2011-2012 school year is \$32,466,314
- sources of revenues are local and county (45.3%), state (34.9%), and federal (19.8%).
- assessed valuation for 2011 is \$283,310,605 and the current tax levy is \$3.4199
- enrollment is 3,621 for the 2011-2012 school year.
- teacher salary range for 2011-2012 is \$30,900 to \$55,130 and the average teacher salary is \$39,483

Test Development and Implementation Costs and Considerations

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Our assumption is the state would develop a series of “template” standards of evaluation and guide the development of testing tools that could be utilized by our district.

Development:

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the state to bear the cost of developing these testing mechanisms. Indeed no testing regime can be considered viable without significant state resources.

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On average, Missouri high school students take seven classes a day, one to three of which are semester courses. Older students take more semester courses.

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Table 3: Average cost of MAP testing to districts from state

Grade	Total students	Cost per test	Cost to test one subject	Number of subjects	Statewide total
K-8	2,616	\$.90 est.	\$2,354.40	9	\$21,189.60
9-12	1,005	\$.90	\$904.50	8 x 2 tests	\$14,472.00
	FY 2013 New costs and reoccurring FY2014				\$35,661.60

Teacher Evaluation Assumptions and Data:

In developing the cost estimates contained we relied on the experiences other states have had in creating a similar evaluation model prescribed in the proposed amendment. Specifically, the removal of teacher experience as part of compensation 3(f) and the development of new evaluation systems for educators on the district level (3g):

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- 1) Create an exemplar template and evaluation system with a resource bank of evaluation tools.
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NOTE: None of this is guaranteed or funded under the Ellinger proposal – nor do we attempt in this analysis to associate costs – but it is worth noting that the state would likely need to develop a whole host of example evaluation tools that districts could adopt and such development is likely to be a costly process.

In addition to the items above the state will likely have to develop and provide:

- 1) Assessment tools from the state need to be available to districts in all subjects, at no cost, and resulting data must be reliable and valid. Districts will recognize that they are allowed to create their own unique assessments, but districts will likely want to use defensible research-based measures provided by the state given the implications the data can have on educators and students.
- 2) A valid individual teacher and student tracking system needs to be developed and in place provided by the state. Much of the ability for districts to evaluate teacher performance based on at least “50% quantifiable data” will rely on the ability to correctly identify the teacher of record for each student in each subject area and assign attributable changes in performance to the appropriate teacher.

The state-level responsibilities listed above are essential to any successful implementation of the Ellinger proposal.

Startup Costs:

Certain initial costs are likely to be required at the district level prior to the implementation of the new evaluation system. We assume the burden for implementing the state mandates would fall to the **individual school district**. For example we would have to spend time selecting evaluation tools and measurements from the state templates, set up first time data systems, develop an appeals process, and provide comprehensive training for evaluators and educators. Colorado estimate the effort needed to accomplish these tasks is as follows:

Table 6: One Time Costs for each district:

	Selecting Evaluation Tools and Measurements	One time Data Set Up	Developing Appeals Process	Professional Development for all Staff	Professional Development for Evaluators
<u>District Personnel*</u>					
Superintendent				2 days	30 hours
Assistant Superintendent					30 hours
Director		5 days			30 hours
Trainer				3 days	60 hours
Clerical Staff					
IT Technician		5 days			
<u>School Personnel*</u>					
Teachers	5% of all teachers, \$100 a day for 3 days			2 days for every teacher	
Committee Teacher Leader	1% of all teachers, \$200 a day for 3 days				
Instructional Coach				2 days for every coach	
Principal				2 days for every principal	30 hours for every principal
<u>District/School Costs*</u>					
Legal			\$10,000		

Augenblick,
Paslaich, and
Associates INC.
Costing Out the
Resources
Implications of
SB 10-191 in
Colorado School
Districts:
Prepared for
State Council for
Educator
Effectiveness.
March 2011. Pg 35

Augenblick,
Paslaich, and

Associates and the Colorado State Board of Education estimate that the initial one-time costs on average are \$53 per student. Given the comparability of Missouri and Colorado (see table 4) we believe that this estimate is applicable to our school system and may be conservative given our average teacher pay and experience level is higher than Colorado's by about 20%.

Ongoing Costs:

For ongoing costs the computation of new expenses that are above and beyond the current requirement set out by regulation or Missouri statute are considered in this section. As such what follows in this section are:

- 1) Likely tools and measures to be used;
- 2) The new effort and resources needed; and
- 3) The ongoing cost for three categories of teachers, (novice, effective, and ineffective).

When considering such a broad and sweeping change of the Missouri education system the usual disclaimers apply – 1) we are anticipating standards based on our experience with DESE and local school boards – **nothing in this document should be viewed as an endorsement of any system of evaluation**, 2) additionally our estimations are based on our best understanding of the initiative and its implementation in our district, and 3) the cost estimate only the amount to evaluate teachers.

Evaluating Teachers:

To evaluate teachers numerous measurers and tools will need to be developed as well as the standards for apply those tools (including but not limited to):

- Observation with pre/post interview
- Examination of lessons, unit plans, assignments and assessments
- Student and Parent feedback
- Peer observation and feedback.
- Teacher self review and interviews
- Analysis of student data and growth.

While these tools can be used with teachers at all levels of experience and ability – allotments must be made for more time and effort to be spent with teachers based on their experience (or lack thereof) and abilities.

The consulting firm of Augenblick, Paslaich, and Associates concluded that teachers are likely to fall into one of the three categories below and require a differing amount of ongoing supervision and evaluation costs. (SEE APPENDIX A - TABLES I-III for breakdown of evaluation and resources for each population of teachers).

Performance Standard	Per Teacher
Novice*	\$343 (increased training and data analysis)
Effective	\$531 (increased data analysis and frequency of evaluation)
Need Improvement	\$3,783 (increased number of teachers identified that require supervision and remediation)

*Boulder Valley School District. SB 191 and you. April 2011

The Hannibal School Districts commitment to quality has allowed us to recruit a corps of 326 highly qualified teachers with an average of 12.7 years of experience.

As such we have adjusted our assumptions as follows:

97% (316 teachers) will fit into the “Effective” category.

2.75% (9 teachers) will qualify as “novice”

Only .25% (1 teachers) will fit into the “need improvement” category.

Fiscal Impacts of 3(f) and 3(g) implementation of proposed evaluation model:

Fiscal Year 2013 – 1st year of implementation: Assumes average costs of \$53 per student and an even population of 3,585 students. Also assumes 1st year evaluation costs (see Table 9).*

Fiscal Year 2014 – 2nd year of evaluation and increased MAP costs.*

*Assumes state development of template systems of evaluation and testing mechanisms.

Table 7: Estimated Cost to District for Evaluation

FY 2013		\$ Estimate
Startup Cost assume average of \$53 per student	One time Cost Student K-12 Population of Missouri 22,201 (2012)	3,621 x \$53 = \$191,913.00
FY 2013	Increased MAP Costs (Re-occurring)	\$35,661.60
FY 2013	First Yearly Evaluation: NOVICE evaluation costs \$343 *	9 x \$343 = \$ 3,087.00
	First Yearly Evaluation: NEED IMPROVEMENT evaluation costs \$3,783	1 x \$3,783 = \$3,783.00
	First Yearly Evaluation: Effective \$531	316 x \$531 = \$167,796.00
Total FY 2013		\$ 402,240.60

FY 2014	Yearly Reoccurring Evaluation: NOVICE evaluation costs \$343 *	9 x \$343 = \$ 3,087.00
	Yearly Reoccurring Evaluation: NEED IMPROVEMENT evaluation costs \$3,783	1 x \$3,783 = \$3,783.00
	Yearly Reoccurring Evaluation: Effective \$531	316 x \$531 = \$167,796.00
FY 2014	Increased MAP Costs (Re-occurring)	\$ 35,661.60
Total FY 2014		\$ 210,327.60
Total Costs of evaluation program to School District FY 2013-2014		\$612,568.20

*The National Commission on Teaching and America's Future (NCTAF). Report of Teacher Age and Experience by State (2007-2008). Available via: <http://nctaf.org/wp-content/uploads/2012/01/WebAgeandExpbyState07-08.pdf>

APPENDIX A

NEW RESOURCES NEEDED BY TEACHER BASED ON DESIGNATION
TABLES PREPARED BY:

Augenblick, Paslaich, and Associates March 2011

TABLE I
New Resources Needed to Evaluate an Effective Teacher Each Year

	Training or Evaluation System/Tools	Evaluation [Formal and Informal]						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards VI		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
<u>District Personnel</u>									
Administrator									1 hr
Clerical Staff								0.5 hr	1 hr
<u>School Personnel</u>									
Teachers									
Instructional Coach									
Principal		1.5 hrs							
Data Manager							3 hrs		
Substitute						1 day at \$100			
<u>District/School Costs</u>									
Supplies and Materials									
Other					Cost at State Level				

Notes: For resources highlighted in green, only two-thirds of the cost of that resource is new.

TABLE II
New Resources Needed to Evaluate a Novice Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards VI		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
<u>District Personnel</u>									
Administrator									1.5 hr
Clerical Staff								0.5 hr	1 hr
<u>School Personnel</u>									
Teachers	.25 day								
Instructional Coach	.05 day**								
Principal	.05 day**								
Data Manager							3 hrs		
Substitute									
<u>District/School Costs</u>									
Supplies and Materials	\$5								
Other					Cost at State Level				

**Working with 5 teachers at a time for .25 day, so .05 is attributable to each of those teachers

TABLE III
New Resources Needed to Evaluate a Newly Identified Ineffective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Instructional Improvement	Review of Results/ Rating	Reporting/ Reviewing Evaluation Results
		Standards IV					Standards VI			
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments			
District Personnel										
Administrator										2
Clerical Staff									0.5 hr	1 hr
School Personnel										
Teachers										
Instructional Coach								40 hours		
Principal		30 hrs								
Data Manager							3 hrs			
Substitute						1 day at \$100				
District/School Costs										
Course/Workshop Fee								\$500		
Supplies and Materials										
Other				Cost at State Level						

Officials from **Rockwood R-VI School District** indicated:

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution to the Rockwood R-VI school district. While our analysis focuses on the impacts to our district - we share the same concerns voiced by Mr. Roger Kurtz in his submission to your office regarding the impact of the proposed amendment.

We believe this Amendment has wide ranging financial impacts for Local Government entities who would be required constitutionally to develop expertise on school district evaluation policies before releasing local funds. Our analysis will focus the specific costs of the impact of developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g) of the amendment using data from Missouri and similar proposals from Colorado as a basis for analysis.

In general the proposed amendments costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject, to be used as a basis for evaluation of educators.

To acquire the incredible amount of data necessary to fulfill this goal is a herculean task - a proven and statistically reliable test for every subject must be created and administered for every grade level to every student. Missouri has developed tests for a handful of core subjects and administers them periodically in a students progression from kindergarten to the 12th grade. This allows a real and accurate basis for the costing of testing for every child in every subject.

The Rockwood School District:

There is an advantage to being a part of the Rockwood School District. This premier school district located in West St. Louis County has high student achievement, outstanding teachers and staff, and great community support.

Our mission of doing whatever it takes to ensure all students realize their potential is at the center of our work. In Rockwood, we want every child to succeed. The Rockwood R-VI school district is one of the top performing school districts in Missouri and the nation. With a graduation rate of 94.9% the Department of Elementary and Secondary Education notes our district as Distinction in Performance with High Achievement , additionally we are one of the best financially managed districts in the United States receiving a Moodys bond rating of AA2 and a Standard & Poors rating o f AAA.

We service a large and diverse population with:

- 19 Elementary Schools
- 6 Middle Schools
- 4 High Schools
- 10 National Blue Ribbon Schools
- 14 Missouri Gold Star Schools of Excellence
- 8 National Schools of Character
- 9 Missouri Schools of Character

With: Separate Campuses for Gifted, Early Childhood and Alternative High School Education

The district educates and serves over 22,500 students (Pre-k - 12) .

Test Development and Implementation Costs and Considerations

Mr. Ellingers submission requires that every school district develop a set of locally based performance standards a majority of which is based on quantifiable data :

3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria.

Our assumption is the state would develop a series of template standards of evaluation and guide the development of testing tools that could be utilized by our district.

Development:

Test development is a prohibitively expensive undertaking for any school district. We would be unable to fund the development of tests to meet the reliability, validity and scope required by this proposal.

Any school district will require defensible research-based measures provided by the state. Given that the results of these assessments would be the major factor in employment decisions, it is likely policy makers will later use the data to make funding or accreditation decisions.

Currently, the state of Missouri provides assessments in only two subjects, math and communication arts, for students in grades 3-8 and one year in high school. Science tests are available for one elementary, one middle school grade, and high school biology.

The state paid for the development of the tests, including item and task specification, item authoring, bias and sensitivity checks, psychometric work, piloting, lay out and printing for the paper based 3-8 tests, and computer adaptive work for the high school tests.

The state pays for the scoring of these tests at \$.06 per test. Until the recent budget crisis, the cost to score was higher as Missouri's assessments were not limited to multiple-choice questions as they are now. Previous assessments included constructed response questions where students wrote in short answers, as well as performance events where students wrote an essay or did multi-step problem solving.

In addition, tests need ongoing revisions through the use of parallel questions, so the questions are not the same from year to year, but the knowledge and skill tested remains the same.

In recent years, this annual revision has been limited due to budget restraints. Constructed response items and performance events have been removed from the assessments. In addition, budget cuts have forced DESE to pay the cost of current year assessments out of the next years funding.

In order to evaluate teachers based on student assessments, you must first have baseline achievement data on each student for that subject. Current growth models can only provide data for 4th - 8th grade students in math and communication

arts, because there is not baseline data for third graders. High school courses each consist of distinct content, therefore scores on one course cannot be considered a starting point for another with the possible exception of Algebra I and II.

Massachusetts began to use student growth measured by state assessments in teacher evaluations and found current assessments only produced data for 17% of teachers. The language in 3 (g) would require annual assessments of pre-K to 8th grade students in every subject. High school courses would require pre-tests at the beginning of the course as well as end of course tests to measure student achievement growth in each course offering.

The following list of courses was taken from the Missouri School Improvement Program 4 Resource Standards, found at www.dese.mo.gov.

Table 1 School Improvement Courses

	Elementary Courses	Middle School Courses
1	Math by grade	Math by grade
2	Reading by grade	Reading by grade
3	Language Arts by grade	Language Arts by grade
4	Social Studies/History by grade	Social Studies/History by grade
5	Science by grade	Science by grade
6	Music by grade	Vocal Music
7	Art by grade	Instrumental Music
8	Physical Education by grade	Art
9	Foreign Language by grade	Physical Education by grade
10	Health by grade	Health
11	Career Awareness by grade	Foreign Language
12	Instrumental Music I and II	Speech
13	Library Skills by grade	Algebra 1
14		Agriculture
15		Family and Consumer Science
16		Industrial Technology
17		Computer Literacy
18		Career Education

Middle school students are required to take the four core subjects, physical education, health, art and music. Some students will also have a stand-alone reading course. This totals nine subjects for one year. Seventh and eighth graders must, in addition, have access to four exploratory classes, bringing the total courses for them to 13. Some of these courses would only last for 6 weeks, others may last a semester.

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*Source: DESE - District Report Card 2011, 096091 District Code

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In addition to the items above the state will likely have to develop and provide:

- 1) Assessment tools from the state need to be available to districts in all subjects, at no cost, and resulting data must be reliable and valid. Districts will recognize that they are allowed to create their own unique assessments, but districts will likely want to use defensible research-based measures provided by the state given the implications the data can have on educators and students.
- 2) A valid individual teacher and student tracking system needs to be developed and in place provided by the state. Much of the ability for districts to evaluate teacher performance based on at least 50% quantifiable data will rely on the ability to correctly identify the teacher of record for each student in each subject area and assign attributable changes in performance to the appropriate teacher.

The state-level responsibilities listed above are essential to any successful implementation of the Ellinger proposal.

Startup Costs:

Certain initial costs are likely to be required at the district level prior to the implementation of the new evaluation system. We assume the burden for implementing the state mandates would fall to the **individual school district**. For example, we would have to spend time selecting evaluation tools and measurements from the state templates, set up first time data systems, develop an appeals process, and provide comprehensive training for evaluators and educators. Colorado estimate the effort needed to accomplish these tasks is as follows:

Table 6: One Time Costs for each district:

	Selecting Evaluation Tools and Measurements	One time Data Set Up	Developing Appeals Process	Professional Development for all Staff	Professional Development for Evaluators
<u>District Personnel*</u>					
Superintendent				2 days	20 hours
Assistant Superintendents					20 hours
Director		5 days			20 hours
Trainer				3 days	20 hours
Other Staff					
IT Technicians		3 days			
<u>School Personnel*</u>					
Teachers	2% of all teachers, \$160 a day for 3 days			2 days for every teacher	
Committee superintends	1% of all teachers, \$280 a day for 3 days				
Instructional Coach				2 days for every coach	
Principal				2 days for every principal	50 hours for every principal
<u>District/School Costs*</u>					
Total			\$10,000		

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Effectiveness. March 2011. Pg 35

Augenblick, Paslaich, and Associates and the Colorado State Board of Education estimate that the initial one-time costs on average are \$53 per student. Given the comparability of Missouri and Colorado (see table 4) we believe that this estimate is applicable to our school system and may be conservative given our average teacher pay and experience level is higher than Colorados by about 20%.

Ongoing Costs:

For ongoing costs the computation of new expenses that are above and beyond the current requirement set out by

regulation or Missouri statute are considered in this section. As such what follows in this section are:

- 1) Likely tools and measures to be used;
- 2) The new effort and resources needed; and
- 3) The ongoing cost for three categories of teachers, (novice, effective, and ineffective).

When considering such a broad and sweeping change of the Missouri education system the usual disclaimers apply - 1) we are anticipating standards based on our experience with DESE and local school boards - **nothing in this document should be viewed as an endorsement of any system of evaluation,** 2) additionally our estimations are based on our best understanding of the initiative and its implementation in our district, and 3) the cost estimate is only for the amount to evaluate teachers.

Evaluating Teachers:

To evaluate teachers numerous measures and tools will need to be developed as well as the standards for applying those tools (including but not limited to):

- Observation with pre/post interview
- Examination of lessons, unit plans, assignments and assessments
- Student and Parent feedback
- Peer observation and feedback
- Teacher self review and interviews
- Analysis of student data and growth

While these tools can be used with teachers at all levels of experience and ability - allotments must be made for more time and effort to be spent with teachers based on their experience (or lack thereof) and abilities.

The consulting firm of Augenblick, Paslaich, and Associates concluded that teachers are likely to fall into one of the three categories below and require a differing amount of ongoing supervision and evaluation costs. (SEE APPENDIX A - TABLES I-III for breakdown of evaluation and resources for each population of teachers).

Performance Standard	Per Teacher
Novice*	\$343 (increased training and data analysis)
Effective	\$531 (increased data analysis and frequency of evaluation)
Need Improvement	\$3,783 (increased number of teachers identified that require supervision and remediation)

*Boulder Valley School District. SB 191 and you. April 2011

Rockwood R-VIs exceptional commitment to quality has allowed us to recruit a corps of 1,480 highly qualified and experienced teachers. Teachers designated as Highly Qualified Teachers under the No Child Left Behind Act teach 100% of our classes. As such we have adjusted our assumptions as follows:

97% (1,435 teachers) will fit into the Effective category.
 2.75% (41 teachers) will qualify as novice
 Only .25% (4 teachers) will fit into the need improvement category.

Fiscal Impacts of 3(f) and 3(g) implementation of proposed evaluation model:

Fiscal Year 2013 - 1st year of implementation: Assumes average costs of \$53 per student and a population of 22,201 students. Also assumes 1st year evaluation costs (see Table 9).*

Fiscal Year 2014 - 2nd year of evaluation and increased MAP costs.*

*Assumes state development of template systems of evaluation and testing mechanisms.

Table 7: Estimated Cost to District for Evaluation

FY 2013		\$ Estimate
Startup Costs assume average of \$53 per student	One time Cost for Student K-12 Population of 22,201	22,201 x \$53 = \$1,176,653.00
FY 2013	Increased MAP Costs (Re-occurring)	\$222,667.00
FY 2013	First Yearly Evaluation: NOVICE evaluation costs \$343 *	41 x \$343 = \$ 14,063.00
	First Yearly Evaluation: NEED IMPROVEMENT evaluation costs \$3,783	4 x \$3,783 = \$15,132.00
	First Yearly Evaluation: EFFECTIVE \$531	1,436 x \$531 = \$762,516.00
Total FY 2013		\$ 2,191,031.00

FY 2014	Reoccurring Yearly Evaluation: NOVICE evaluation costs \$343 *	41 x \$343 = \$ 14,063.00
	Reoccurring Yearly Evaluation: NEED IMPROVEMENT evaluation costs \$3,783	4 x \$3,783 = \$15,132.00
	Reoccurring Yearly Evaluation: EFFECTIVE \$531	1,436 x \$531 = \$762,516.00
FY 2014	Increased MAP Costs (Re-occurring)	\$222,667.00
Total FY 2014		\$1,014,378.00
Total Costs of evaluation program to School District FY 2013-2014		\$3,205,409.00

*The National Commission on Teaching and America's Future (NCTAF). Report of Teacher Age and Experience by State (2007-2008). Available via: <http://nctaf.org/wp-content/uploads/2012/01/WebAgeandExpbyState07-08.pdf>

APPENDIX A

NEW RESOURCES NEEDED BY TEACHER BASED ON DESIGNATION

TABLES PREPARED BY:

Augenblick, Paslaich, and Associates March 2011

TABLE I New Resources Needed to Evaluate an Effective Teacher Each Year									
	Training on Evaluation Systems/Tools	Evaluation (Formal and Informal)						Rating/ Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standard VI		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
District Personnel									
Administrator									1 hr
Curriculum Specialist								0.5 hr	1 hr
School Personnel									
Teachers									
Instructional Coach									
Principal									
Instructional Manager									
Student Intern									
District/School Costs									
Supplies and Materials									
Other									
Note: * New resources highlighted in green or yellow indicate that the cost of this resource is new.									

TABLE II New Resources Needed to Evaluate a Novice Teacher Each Year									
	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-IV					Standards V		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessment		
District Personnel									
Administrator									1.5 hr
District Staff								0.5 hr	1 hr
School Personnel									
Teachers	.25 day								
Instructional Coach	.05 day*								
Principal	.05 day*								
Data Manager							3 hrs		
Substitute									
District/School Costs									
Supplies and Materials	\$5								
Other					Cost at State Level				
* Assuming only 3 teachers are one for .25 day, so .05 is attributed to each of those teachers									

TABLE III New Resources Needed to Evaluate a Newly Identified Ineffective Teacher Each Year										
	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Instructional Improvement	Review of Results/ Rating	Reporting/ Reviewing Evaluation Results
		Standards I-IV					Standards V Student Growth Assessment			
		Observations Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration				
District Personnel										
Administrator										2
District Staff									2.5 hr	1 hr
School Personnel										
Teachers										
Instructional Coach								20 hours		
Principal						30 hrs				
Data Manager							3 hrs			
Substitute						1 day at \$100				
District/School Costs										
Course/Workshop For Principals and Veterans								\$500		
Other						Cost at State Level				

Officials from **Linn State Technical College** indicated based on the information presented, there appears to be no fiscal impact to their college.

Officials from the **Harris-Stowe State University** indicated the language included in the petition has no fiscal impact on their university as it only makes reference to school districts not public higher education institutions.

Officials from the **Missouri Western State University** indicated there is no fiscal impact.

The **Missouri Association of School Administrators (submitted by Roger Kurtz, Executive Director)** provided information as an opponent of this initiative petition.

Overview:

This document describes the anticipated fiscal impact of the proposed amendment to Article IX of the Missouri Constitution. While we believe this Amendment has wide ranging financial impacts for Missouri State Government, a chronically underfunded Department of Elementary and Secondary Education (DESE), and local government entities who would be required constitutionally to develop expertise on school district evaluation policies before releasing funds, our analysis will focus the specific costs of **developing student assessment tools for all grades across all subject areas, implementing a testing regime, and applying those tools to develop and execute an evaluation model as prescribed in sections 3(f) and 3(g)** of the amendment using data from Missouri and similar proposals from Colorado as a basis for analysis.

In general, the proposed amendment's costs are driven by the need to create quantifiable and objective data on each Missouri student, in every subject, to be used as a basis for evaluation of educators. To acquire the incredible amount of data necessary to fulfill this goal is a herculean task – **a proven and scientifically reliable test for every subject must be created and administered for every grade level to every student**. Missouri has developed test for a handful of core subjects and administers them periodically in a student's progression from kindergarten to the 12th grade. This allows a real and accurate basis for the costing of testing for every child in every subject.

Test Development and Implementation Costs and Considerations

Mr. Ellinger's submission requires that every school district develop a set of locally based performance standards a majority of which is based on "quantifiable data":

3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria.

Our assumption is the state would develop a series of "template" standards of evaluation and guide the development of testing tools that could be utilized by individual districts.

Development:

Districts will recognize that the language allows them to create their own unique assessments, but no district would be able to fund the development of tests to meet the reliability, validity and scope required by this proposal. Districts will require defensible research-based measures provided by the state, given the results of these assessments would be the major factor in employment decisions. (Notably, the validity of state assessments for use in teacher evaluations has not been studied.)

Currently, the state of Missouri provides assessments in only two subjects, math and communication arts, for students in grades 3-8 and one year in high school. Science tests are available for one elementary, one middle school grade, and high school biology. **The state paid for the development of the tests, including item and task specification, item authoring, bias and sensitivity checks, psychometric work, piloting, lay out and printing for the paper based 3-8 tests, and computer adaptive work for the high school tests.** The state pays for the scoring of these tests, at .06 per test. Until the recent budget crisis, the

cost to score was higher, as Missouri's assessments were not limited to multiple-choice questions as they are now. Previous assessments included constructed response questions where students wrote in short answers, as well as performance events where students wrote an essay or did multi-step problem solving, such as figuring the cost of installing a chain link fence for a yard of a given dimension.

In addition, tests need ongoing revisions through the use of parallel questions, so the questions are not the same from year to year, but the knowledge and skill tested remains the same.

In recent years, this annual revision has been limited due to budget restraints. Constructed response items and performance events have been removed from the assessments. In addition, budget cuts have forced DESE to pay the cost of current year assessments out of the next year's funding.

In order to evaluate teachers based on student assessments, you must first have baseline achievement data on each student for that subject. **Current growth models can only provide data for 4th – 8th grade students in math and communication arts, because there is no baseline data for third graders. High school courses each consist of distinct content and scores on one course cannot be considered a starting point for another with the possible exception of Algebra I and II.**

Massachusetts began to use student growth measured by state assessments in teacher evaluations, and found current assessments only produced data for 17% of teachers. **The language in 3 (g) would require annual assessments of pre-K to 8th grade students in every subject. High school courses would require pre-tests at the beginning of the course as well as end of course tests to measure student achievement growth in each course offering.**

The following list of courses was taken from the Missouri School Improvement Program 4 Resource Standards, found at www.dese.mo.gov.

Table 1 School Improvement Courses

	Elementary Courses	Middle School Courses
1	Math by grade	Math by grade
2	Reading by grade	Reading by grade
3	Language Arts by grade	Language Arts by grade
4	Social Studies/History by grade	Social Studies/History by grade
5	Science by grade	Science by grade
6	Music by grade	Vocal Music
7	Art by grade	Instrumental Music
8	Physical Education by grade	Art
9	Foreign Language by grade	Physical Education by grade
10	Health by grade	Health
11	Career Awareness by grade	Foreign Language
12	Instrumental Music I and II	Speech
13	Library Skills by grade	Algebra 1
14		Agriculture
15		Family and Consumer Science
16		Industrial Technology
17		Computer Literacy
18		Career Education

Middle school students are required to take the four core subjects, physical education, health, art and music. Some students will also have a stand-alone reading course. This totals nine subjects for one year. Seventh and eighth graders must in addition have access to four exploratory classes, bringing the total courses for them to 13. Some of these courses would only last for 6 weeks, others may last a semester.

High school courses would require a pre-test and an end-of-course test for each subject offered. Jefferson City High School offers 236 unique courses. That would require the development and administration of 472 tests, only 8 of which are currently available.

Development Costs:

Table 2 illustrates the costs associated with developing new testing regimes from previous RFPs on Smarter Balanced Assessment Consortium website.

Table 2: RFP for Smarter Balanced Assessment

PROJECT	DETAILS	BID COST Estimate
SBAC RFP No. 14	SBAC Pilot Item/Task/Stimulus Research Development and Reviews	\$19,000,000
SBAC RFP No. 07	Item Authoring and Item Pool Application	\$1,988,000
SBAC RFP No. 09	Test Blueprint and Computer Adaptive Test Specifications	\$1,457,721
SBAC RFP No. 08 1-2012 to 10-2013	Participation and Training Materials	\$739,392
SBAC RFP No. 05	Psychometric Services	\$3,500,000
SBAC RFP No. 06	Development of Accessibility and Accommodations Policies and Materials	\$930,000
SBAC RFP No. 04	SMARTER Balanced Assessment Consortium Request for Proposals to Develop Item and Task Specifications, Style Guide, Bias and Sensitivity Guidelines, and Accessibility and Accommodations Guidelines	\$1,500,000
SBAC RFP No. 03	SMARTER Balanced Assessment Consortium II Systems Architecture (word)	\$2,000,000
SBAC RFP No. 02	IT Readiness Tool for SBAC and PARCC (word)	\$500,000 (2011-14)
SBAC RFP No. 01	Smarter Balanced Assessment Communications RFP	\$2.2 million (2011-14)

RFP 2010-07 (SBAC RFP)	Comprehensive Assessment Systems Grant – Project Management Partner	Not included
Total for Math and CA		\$33,815,113 for 14 tests
<u>Cost per test to develop</u>		<u>\$2,415,365</u>
Total FY 2013 Cost for 481 new tests		\$1,161,790,565

Administration Costs:

Administering assessments for pre-K through 2nd grade students is significantly more costly for school districts, as much of this testing must be administered one-on-one. This means the district hires a substitute for the several days it takes the classroom teacher to complete individual student assessments.

Cost to districts: Cost estimates are based on current charge districts for MAP tests, and testing every student in every subject.

Table 3: Average cost of MAP testing to districts from state

Grade	Total students	Cost per test	Statewide total one subject	Number of subjects	Statewide total
Pre-K	29,141 (2011)	\$.90 est.	\$26,227	6	\$157,362
K	66,000	\$.90 est.	\$59,400	9	\$534,600
1	66,000	\$.90 est.	\$59,400	9	\$534,600
2	66,000	\$.90 est.	\$59,400	9	\$534,600
3	66,000	\$0.90	\$59,400	9	\$534,600
4	66,000	\$0.90	\$59,400	9	\$534,600
5	66,000	\$0.90	\$59,400	9	\$534,600
6	66,000	Free for math and CA	\$59,400 for additional subjects	9	\$534,600
7	66,000	\$0.90	\$59,400	13	\$772,200

8	66,000	\$1.80	\$118,800	13	\$1,544,400
TOTAL # of subject tests that will be required by Ellinger petition in K-8				95	\$6,216,162
Current policies only require the administration of 12 tests in the K-8 grade level.				12	\$712,800
83 new test administrations for K-8 grade levels FY 2013 New costs and reoccurring FY 2014				83 new tests	\$5,503,362

On average, Missouri high school students take seven classes a day, one to four of which are semester courses. Older students take more semester courses.

Table 4: Average Cost per Test Applied to New Subject Areas (Statewide)

Grade	Students	Cost per test	Statewide one test	Number of subjects	Statewide total
9	66,000	\$.90	\$59,400	8 x 2 tests	\$950,400
10	66,000	\$.90	\$59,400	8 x 2 tests	\$950,400
11	66,000	\$.90	\$59,400	9 x 2 tests	\$1,069,200
12	66,000	\$.90	\$59,400	9 x 2 tests	\$1,069,200
Total	Total all costs if Ellinger Petition becomes law.				\$4,039,200
Current total: Schools only pay for 3 administered test in current system: \$1.80 @ for 3 subjects					\$178,200
<u>Total new cost</u>					<u>\$3,861,000</u>

State expenditures on MAP and EOC tests in FY 2012 are 10.5 million, covering 22 tests: 3rd to 8th grade math, 3rd to 8th grade communication arts, 5th and 8th grade science, and eight high school end-of-course tests. This averages to \$477,273 per test.

Table 5: Cost of Expanded State Expenditures on MAP and EOC tests using FY 2012 costs

Number of assessments	Cost per assessment	Total cost to state
22 current	\$477,273 currently	\$10.5 million
95 (pre-K to 8 th grade)	\$477,273	\$45,340,935
236 x 2 (one large high school)	\$477,273	\$225,272,856
Total new assessments 545	\$477,273	\$260,113,785

Teacher Evaluation Assumptions and Data:

In developing the cost estimates contained, we relied on the experiences other states have had in creating a similar evaluation model prescribed in the proposed amendment. Specifically, the removal of teacher experience as part of compensation 3(f) and the development of new evaluation systems for educators on the district level (3g):

3(f) Notwithstanding any provisions of this constitution, no school district which uses seniority or duration of employment as a basis, in whole or in part, to retain, remove, promote or demote teachers shall receive any state funding or local tax revenue.

3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria.

While our analysis will cite information from multiple states - the recent experience of Colorado in developing a remarkably similar system of teacher evaluation and estimating

the implementation costs serves as a good exemplar of what Missouri policy makers and budget analysts should expect as they are required to implement sweeping changes to teacher evaluation and compensation. Additionally CO and MO have similarly sized public education systems – and when ranked nationally are very close in size and scope (See table 6 below).

Table 6: Similarities in the size of public education systems in MO and CO*

	Missouri	National Rank (MO)	Colorado	National Rank (CO)
Average Daily Attendance (2010)	835,780	19	771,938	21
Number of Public High School Graduates '09-'10	62,342	20	46,811	22
Number of Public School Teachers K-12	67,882	14	48,960	23

*NEA Research. (2010). Rankings & Estimates Rankings of the States 2010 and Estimates of School Statistics 2011. http://www.nea.org/assets/docs/HE/NEA_Rankings_and_Estimates010711.pdf

Salary data used in this analysis will assume average pay for a Missouri teacher plus 34% to included benefits and other employer obligations. The current average salary for a Missouri teacher is \$45,317 or 48th in the nation and 81.5% of the national average.

The Colorado Experience:

In May of 2010, Colorado passed Senate Bill 191 which completely changed how public-school educators were evaluated in Colorado. **At the core of the proposal were two policy objectives similar to those in 3(f) and 3(g)** of the current proposal: 1) the removal of duration of employment as a basis of evaluation in whole or in part and 2) replaced with a model where quantifiable student growth/achievement represents at least 50% of the total performance by quantifiable and objective standards. Table 7 places the proposals for quantifiable measurement side-by-side for comparison:

Table 7: Comparison of Measurement Standard of Ellinger Proposal v. SB 191 Colorado

	<u>Ellinger Missouri Proposal</u>	<u>Senate Bill 191 Colorado</u>
Side-by-side comparison of measurement standards from MO and CO	“3(g) Notwithstanding any other section of this constitution, every school district shall develop and use local performance standards to retain, remove, promote, demote, and set compensation for teachers in such school district, the majority of such standards shall be based on quantifiable student performance data as measured by objective criteria. “	“Procedures for prioritizing or weighting measures of performance that ensure that measures of student growth represent at least 50 percent of total performance and are prioritized by technical quality, and that measures of professional practice are prioritized by local objectives. “
Source	*Ellinger Submission. (January 17, 2012). Pg 3	* Colorado State Board of Education. Report & recommendations; submitted to the Colorado State Board of Education pursuant to SB 10-191. (April 13, 2011). Pg 18 Available online: http://www.cde.state.co.us/EducatorEffectiveness/downloads/Report%20&%20appendices/SC EE_Final_Report.pdf

We believe the process of estimating costs to local school districts used by the Colorado State Board of Education will shed light on the Ellinger proposal and permit an estimate of the fiscal impact to school districts in Missouri.

Translating the Colorado Experience to Missouri:

In preparation for the transition to the proposed evaluation system for teachers, the Colorado State Board of Education spent over a year building consensus with education stakeholders about how the evaluation system would develop and preparing districts for its implementation – part of that process was a thorough analysis by the state to develop a teacher evaluation system school districts could use as a template and for preparing administrators for the transition. None of which is guaranteed by the Ellinger proposal to occur – however for purpose of analysis we will assume the following role for the state:

- 1) Create an exemplar template and evaluation system with a resource bank of evaluation tools.
- 2) Provide student, teacher, and parent survey instruments and analysis of results to districts.
- 3) Provide a definition of what constitutes a qualified educator for every subject area and grade level.
- 4) Develop materials to support professional development.
- 5) Collect and report evaluation data for the state.

NOTE: None of this is guaranteed or funded under the Ellinger proposal – nor do we attempt in this analysis to associate costs – but it is worth noting that the state would likely need to develop a whole host of example evaluation tools that districts could adopt and such development is likely to be a costly process.

In addition to the items above the state will likely have to develop and provide:

- 1) Assessment tools from the state need to be available to districts in all subjects, at no cost, and resulting data must be reliable and valid. Districts will recognize that they are allowed to create their own unique assessments, but districts will likely want to use defensible research-based measures provided by the state given the implications the data can have on educators and students.
- 2) A valid individual teacher and student tracking system needs to be developed and in place provided by the state. Much of the ability for districts to evaluate teacher performance based on at least “50% quantifiable data” will rely on the ability to correctly identify the teacher of record for each student in each subject area and assign attributable changes in performance to the appropriate teacher.

Startup Costs:

Certain initial costs are likely to be required at the district level prior to the implementation of the new evaluation system. We assume the burden for implementing the state mandates would fall to **individual school districts**. For example, districts would have to spend time selecting evaluation tools and measurements from the state templates, set up first time data systems, develop an appeals process, and provide comprehensive training for evaluators and educators. Colorado estimates the effort needed to accomplish these tasks is as follows:

Table 8: One Time Costs for each district:

	Selecting Evaluation Tools and Measurements	One time Data Set Up	Developing Appeals Process	Professional Development for all Staff	Professional Development for Evaluators
<u>District Personnel*</u>					
Superintendent				2 days	30 hours
Assistant Superintendent					30 hours
Director		5 days			30 hours
Trainer				3 days	60 hours
Clerical Staff					
IT Technician		5 days			
<u>School Personnel*</u>					
Teachers	5% of all teachers, \$100 a day for 5 days			2 days for every teacher	
Committee Teacher Leader	1% of all teachers, \$200 a day for 5 days				
Instructional Coach				2 days for every coach	
Principal				2 days for every principal	30 hours for every principal
<u>District/School Costs*</u>					
Legal			\$18,000		

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Costing Out the Resources
Implications of SB 10-191 in Colorado School Districts: Prepared for State Council for Educator Effectiveness.
March 2011. Pg 35

Augenblick, Paslaich, and Associates and the Colorado State Board of Education estimate that the initial one-time costs on average are \$53 per student. Given the comparability of Missouri and Colorado (see table 1) we believe that this estimate is applicable to our

school system and may be conservative given Missouri has a full 350 more school districts than CO.

Ongoing Costs:

For ongoing costs the computation of new expenses that are above and beyond the current requirement set out by regulation or Missouri statute are considered in this section. As such what follows in this section are:

- 1) Likely tools and measures to be used;
- 2) The new effort and resources needed; and
- 3) The ongoing cost for three categories of teachers, (novice, effective, and ineffective).

When considering such a broad and sweeping change of the Missouri education system the usual disclaimers apply – 1) we are anticipating standards based on our experience with DESE and local school boards – **nothing in this document should be viewed as an endorsement of any system of evaluation**, 2) additionally our estimations are based on an average school district in an average resource environment, and 3) the cost estimate only the amount to evaluate teachers (not administrators or any other group).

Evaluating Teachers:

To evaluate teachers numerous measurers and tools will need to be developed as well as the standards for apply those tools (including but not limited to):

- Observation with pre/post interview
- Examination of lessons, unit plans, assignments and assessments
- Student and Parent feedback

- Peer observation and feedback.
- Teacher self review and interviews
- Analysis of student data and growth.

While these tools can be used with teachers at all levels of experience and ability – allotments must be made for more time and effort to be spent with teachers based on their experience (or lack thereof) and abilities.

The consulting firm of Augenblick, Paslaich, and Associates concluded that teachers are likely to fall into one of the three categories below and require a differing amount of ongoing supervision and evaluation costs. (SEE APPENDIX A - TABLES I-III for breakdown of evaluation and resources for each population of teachers).

Performance Standard	Per Teacher
Novice*	\$343 (increased training and data analysis)
Effective	\$531 (increased data analysis and frequency of evaluation)
Need Improvement	\$3,783 (increased number of teachers identified that require supervision and remediation)

*Boulder Valley School District. SB 191 and you. April 2011

Fiscal Impacts of 3(f) and 3(g) implementation of proposed evaluation model:

Fiscal Year 2013 – 1st year of implementation: Assumes average costs of \$53 per student and an even Missouri Public School Population of 903,423 students.

Fiscal Year 2014 – 1st year of evaluation. Assumes A novice teacher has less than 3 years experience (approximately 14.5% of 67,882) and assumes that only .5% of 62,342 need improvement (See Table 9 for overall costs).

Table 9: Estimated Cost to District for Evaluation

FY 2013		\$ Estimate
Startup Cost assume average of \$53 per student (Pg 9)	One time Cost Student K-12 Population of Missouri 903,423 (2010)	$903,423 \times \$53 =$ \$47,881,419
FY 2014	First Round of Evaluation: NOVICE evaluation costs \$343 *	$14.5\% \times 67,882 \times \$343 =$ \$ 3,376,111
	First Round of Evaluation: NEED IMPROVEMENT evaluation costs \$3,783	$0.5\% \times 67,882 \times \$3,783 =$ \$12,839,880
	First Round of Evaluation: Effective \$531	$80\% \times 67,882 \times \$531 =$ \$28,836,274
Total Costs of evaluation program to School Districts	One Time Expenses Plus + First time evaluation	\$ 92,933,684

*The National Commission on Teaching and America's Future (NCTAF). Report of Teacher Age and Experience by State (2007-2008). Available via: <http://nctaf.org/wp-content/uploads/2012/01/WebAgeandExpbyState07-08.pdf>

Cost Summary:

Mr. Ellinger's proposal is a blunt instrument wielded with broad and far-reaching language. The proposed amendment imposes a requirement to evaluate students and teachers based on quantifiable data creating a chain of unintended consequences. The state and districts will have to develop a series of new tests for every subject from math and reading

to home economics and wood shop. Tests used to evaluate student progress are expensive and scientifically rigorous instruments that must bear heavy scrutiny from a number of stakeholders. Should the state and school districts be mandated, the costs quickly explode. Table 10 below summarizes our estimate of costs in the next two fiscal years.

Table 10 Costs FY2013-2014

FY2013 (First Year)

State:

FY 2013 (First Year Costs)		\$ Estimate
Test Development all subjects and all grades:	Based on Previous RFP's Smarter Balanced Assessment (See Table 2)	\$1,161,790,565
FY 2013		\$ Estimate
Startup Cost assume average of \$53 per student (Pg 9)	One time Cost Student K-12 Population of Missouri 903,423 (2010) (See Table 9)	903,423 x \$53 = \$47,881,419
FY 2013		\$ Estimate
Cost to State for 545 new assessments. (Reoccurring)	See table 5 State Costs for MAP / EOC Admin	\$260,113,785
<u>Total</u>		<u>\$1,469,785,769</u>

School Districts:

FY 2013		\$ Estimate
Additional MAP Testing (reoccurring)	Based on previous costs to districts (Table 3 +4)	\$5,503,362 + \$3,861,000 = \$9,364,362
FY 2013		\$ Estimate
Startup Cost assume average of	One time Cost Student K-12	903,423 x \$53 =

\$53 per student	Population of Missouri 903,423 (2010)	\$47,881,419
FY 2013		\$ Estimate
Teacher Evaluations First Round (Re-occurring expense)	See Table 9 sum of all evaluations	\$45,052,265
<u>Total</u>		\$102,298,046

FY 2014 (Second Year)

State:

FY 2014		\$ Estimate
Cost to State for 545 new assessments. (Reoccurring)	See table 5 State Costs for MAP / EOC Admin	\$260,113,785
<u>Total</u>		<u>\$260,113,785</u>

School Districts:

FY 2014		\$ Estimate
Additional MAP Testing (reoccurring)	Based on previous costs to districts (Table 3 +4)	$\$5,503,362 + \$3,861,000 =$ \$9,364,362
FY 2014		\$ Estimate
Teacher Evaluations Re-occurring expense	See Table 9 sum of all evaluations	\$45,052,265
<u>Total</u>		<u>\$54,416,627</u>

Total Costs State And Districts FY 2013 = **\$ 1,572,083,815**

Total Costs State And Districts FY 2014 = **\$ 314,530,412**

APPENDIX A

NEW RESOURCES NEEDED BY TEACHER BASED ON DESIGNATION

TABLES PREPARED BY:

Augenblick, Paslaich, and Associates March 2011

TABLE I
New Resources Needed to Evaluate an Effective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards VI		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
District Personnel									
Administrator									1 hr
Clerical Staff								0.5 hr	1 hr
School Personnel									
Teachers									
Instructional Coach									
Principal						7.5 hrs			
Data Manager							3 hrs		
Substitute						1 day at \$100			
District/School Costs									
Supplies and Materials									
Other				Cost at State Level					
Notes: For resources highlighted in green only two thirds of the cost of that resource is new.									

TABLE II
New Resources Needed to Evaluate a Novice Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Rating, Review of Results	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards VI		
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments		
<u>District Personnel</u>									
Administrator									1.5 hr
Clerical Staff								0.5 hr	1 hr
<u>School Personnel</u>									
Teachers	.25 day								
Instructional Coach	.05 day*								
Principal	.05 day*								
Data Manager							3 hrs		
Substitute									
<u>District/School Costs</u>									
Supplies and Materials	\$5								
Other				Cost at State Level					

* Working with 5 teachers at a time for .25 day, so .05 is attributable to each of those teachers

TABLE III
New Resources Needed to Evaluate a Newly Identified Ineffective Teacher Each Year

	Training on Evaluation System/Tools	Evaluation (Formal and Informal)						Instructional Improvement	Review of Results/ Rating	Reporting/ Reviewing Evaluation Results
		Standards I-V					Standards VI			
		Observations, Pre/Post Interviews	Examination of Artifacts	Student Surveys	Parent Surveys	Peer Observation/ Collaboration	Student Growth Assessments			
District Personnel										
Administrator										2
Clerical Staff									0.5 hr	1 hr
School Personnel										
Teachers										
Instructional Coach								40 hours		
Principal		30 hrs								
Data Manager							3 hrs			
Substitute						1 day at \$100				
District/School Costs										
Course/Workshop Fee								\$500		
Supplies and Materials										
Other				Cost at State Level						

The State Auditor's office did not receive a response from the **Attorney General's office**, the **Department of Public Safety**, the **Department of Transportation**, the **Missouri Senate**, **Cass County**, **Jackson County Legislators**, **St. Louis County**, the **City of Cape Girardeau**, the **City of Kirksville**, the **City of Springfield**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, **University of Central Missouri**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, and **Truman State University**.

Fiscal Note Summary

Estimated costs for state and local governmental entities are unknown, but the initial and annual costs could be significant (millions of dollars) depending on decisions made at the state and local level to comply with required provisions in this proposal.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-10)**

Subject

Initiative petition from Todd Jones regarding a proposed constitutional amendment to Article III. (Received January 20, 2012)

Date

February 8, 2012

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's Office requested input from the **Attorney General's Office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's Office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's Office**, the **Office of the State Public Defender**, the **State Treasurer's Office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Kirkwood**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal School District #60**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community Colleges**, the **University of Missouri**, **St. Louis Community College**, and the **Missouri Life Sciences Research Board**.

Dena Ladd provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's Office** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development** anticipates no fiscal impact as a result of the proposed legislation.

The **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

The **Department of Health and Senior Services** indicated this initiative petition is a no impact not for their department.

The **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to the department.

The **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

The **Department of Corrections** indicated no impact for their department.

The **Department of Labor and Industrial Relations** indicated this initiative petition has no fiscal impact on their department.

The **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

The **Department of Social Services** indicated passage of this initiative petition will have no effect on their department.

Officials from the **Governor's Office** indicated there should be no added costs or savings to their office if approved by the voters.

The **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

The **Office of Administration** indicated this proposal will have no fiscal impact on their office.

The **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290,

RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, their office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there is no fiscal impact to their office.

Officials from the **City of Columbia** indicated this initiative does not have a direct effect on the city.

Officials from the **City of Jefferson** indicated they expect no fiscal impact if this petition becomes law.

Officials from the **City of Kansas City** indicated this proposal will restrict the medical research performed in Kansas City by forbidding certain stem cell research, including somatic cell nuclear transfer (SCNT).

It is estimated that the city received earnings taxes of almost \$171,000 in 2006 just from the work force at the Stowers Institute for Medical Research/Stowers Institute for Resource Development. It is also estimated that the State of Missouri earned almost \$763,000 in state income taxes. The Greater Kansas City Community Foundation reported in 2005 that the Stowers Institute for Medical Research is projected to increase funding each year by 20% to 25%, so that by 2015 it will be conducting \$300 million of research annually. That represents a continuous significant increase in earnings tax receipts (1% of gross salary). As reported at their website (December 2011), the Stowers Institute for Medical Research currently employs 475 staff members and has spent more than \$850 million on research since their beginning in 2000.

Although not pinpointed by city, but rather by the Kansas City, Missouri-Kansas area, the Kansas City Area Life Sciences Institute, in their 2009 life sciences research and development census, reported that 40% of respondents increased employment in 2009 and of those responding, 73% estimated they would increase employment over the next 36 months - assuming no change in the regulatory environment for this research. The

Kansas City Area Life Sciences Institute reports that 47 of the 206 life science companies are in the counties in which Kansas City is located.

The Kansas City Area Life Sciences Institute estimates that the counties in which Kansas City is located contain over 8,000 jobs in the life sciences. Of course, not all of those jobs relate to research involving SCNT, but the important fact is that there is in the Kansas City, Missouri - Kansas area significant life sciences jobs. That these jobs can be clustered sustains the larger growth in this field of medical research. Eliminating research using SCNT will erode the cluster effect of the remaining jobs and increase the adverse financial impacts felt by the area. Therefore, the loss of earnings tax should be considered the lowest amount of adverse financial impact since adoption of the proposed Constitutional Amendment will result in a reduced cluster of jobs.

The loss of employment represented by earnings tax of \$171,000 is roughly \$17.1 million in gross earnings. The loss of sales tax from the transfer of those jobs to another state where SCNT research would be lawful is significant. The City of Kansas City estimates in its current budget earnings tax receipts of \$199,250,000 and sales tax receipts of \$157,781,250, or about 79% of the earnings tax. If that ratio remained constant, the loss of \$171,000 in earnings tax represents an additional loss of about \$135,000 in sales tax just from the loss of the Stowers Institute for Medical Research / Stowers Institute for Resource Development and all of its jobs. Again, these estimates are the lowest estimates because of the planned expansion of the Stowers Institute - if the legal environment for stem cell research as guaranteed by current law is continued.

The financial impact of these jobs leaving the Kansas City area also will include the loss of the multiplier effect as payroll is recirculated within a local economy.

Officials from the **City of Raymore** indicated no fiscal impact.

Officials from the **City of St. Joseph** indicated this would have no fiscal impact on their city.

Officials from the **City of Wentzville** indicated they do not expect any financial impact from this petition.

Officials from the **Hannibal School District #60** indicated they do not believe this initiative petition will have any effect on revenue or expenditures to the district.

Officials from the **Rockwood R-VI School District** indicated as it is written, they see no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated based on the information presented, there appears to be no fiscal impact to their organization.

Officials from **Metropolitan Community College** indicated this bill would have no direct fiscal impact on their organization.

Officials from **University of Missouri** indicated:

This amendment would effectively repeal the Stem Cell Amendment (Amendment 2 from 2006) and have a significant, negative chilling effect on education, research, and economic development across the UM System - at all four campuses and our academic health centers.

The proposed amendment, if passed, is projected to have a profound impact on the University's ability to grow and sustain its research operations and meet and exceed its economic development goals. Critical to fulfilling the University of Missouri's mission as the state's public research university is the ability to recruit and retain top faculty researchers who will contribute to the research enterprise to the ultimate benefit of the state's economy. The perception that the state has a hostile attitude towards research, and thus to academic freedom, can have a dampening effect on recruitment and retention of faculty. This amendment would have a deleterious effect on faculty perceptions and a negative impact on the University's ability to conduct cutting edge research that will extend beyond the life sciences.

Competition nationwide to attract and retain research faculty is exceedingly high. Faculty members consider many factors when deciding whether to stay in current positions or to accept offers from other states, including: supportive environment for research, level of state and private support, institutional reputation, and availability of state-of-the-art research facilities. A study conducted in 2006 by the National Bureau of Economic Research demonstrated the importance of attracting and retaining "research stars." These research stars in turn attracted other research stars that would concentrate in the area - increasing the number of start-up firms and economic activity in the area. The stars and the surrounding start-up firms would generate additional patents and invention disclosures - spinning off economic development with resulting growth in jobs and transforming economic activity in the area. Thus this concentrated effort results in the "rich getting richer" by virtue of the interactive effects of new ideas generating other new ideas. The proposed amendment will seriously impact the University's ability to attract and retain the "stars."

In FY 2011, the University of Missouri generated \$329 million in research expenditures from funding to faculty researchers provided by federal and private sources. The funding primarily provides for the salaries of the researchers and their research staffs, supplies and equipment and the administrative infrastructure that supports research. If one assumes only half of the University's research funding, or \$165 million, is in jeopardy, the direct financial loss to the University would be significant. This loss would come from top researchers leaving the University to go to institutions where there is an open and supportive climate for research and academic freedom. The economic impact on the state would be even greater because recent economic analysis* indicates every \$1.00 in research funding brought into the state generates almost \$2.00 in economic output and every \$1.0 million in research funding supports 17 jobs thus reducing economic output by \$329 million and impacting approximately 2800 jobs.

This amendment could also have an impact on the University's ability to support and grow commercialization of new technologies and the formation of new companies that result from the research. The University increased revenues from patents and licenses from \$2.3 million in FY2006 to approximately \$10 million in FY2010. This amendment would jeopardize continued growth in revenues that would be used by the University to reinvest in research and technology transfer operations and in economic development ventures that benefit the entire state such as the Discovery Ridge research park and the life sciences incubator in Columbia and the Missouri University of Science and Technology Innovation Park in Rolla. A recent MERIC economic impact analysis on Discovery Ridge indicated that continued investment in this project would yield an economic impact of \$33 million on the state's economy.

Finally, this amendment, if passed, could have a deleterious affect on the University's ability to continue to attract leading medical researchers and physicians to its medical schools and hospitals in Columbia and Kansas City. This would compromise the ability of the University's academic health centers to sustain high quality health care for citizens in the state and to continue to develop cutting edge treatments for the most life threatening medical conditions. This could result in the loss of patients to our hospitals and clinics as citizens of the state seek health care in other states. The fiscal impact of this is difficult to quantify.

*Kaufman, J., Kalaitzandonakes, N, and Johnson, T. "The Economic Role of the University of Missouri in the State." March 18, 2008.

Dena Ladd provided information as an opponent of this initiative petition.

This initiative would have a material adverse impact on medical research and access to emerging medical cures in this state and have a dramatic impact on state and local government finance. She said she is submitting fiscal information in opposition to the initiative petition. This information is similar to fiscal information submitted previously for substantially similar anti-medical research and cures initiative petitions, including for Fiscal Notes 07-16; 08-31; 09-10 and 09-34. The State Auditor's Office Fiscal Notes and Summaries for these measures are also included as attachments to this submittal to be made a part of your office's formal fiscal note record for the current measure.

Information Relating to on the Impact of Proposed Anti-Stem Cell Research/Cures Initiative Petition

September 13, 2007

Joseph H. Haslag, Ph. D.

and

Brian K. Long, Ph. D.^{*}

^{*} Joseph Haslag has a doctorate in economics from Southern Methodist University and is a professor of economics at the University of Missouri in Columbia. Brian Long has a doctorate from the Maxwell School of Citizenship and Public Affairs at Syracuse University and is the former Budget Director for the State of Missouri.

Information Relating to on the Impact of Proposed Anti-Stem Cell Research/Cures Initiative Petition

Background:

A successful attempt to prohibit certain promising stem cell research will have significant, negative long-term impacts on the health of Missouri citizens and the economy of the state. It has been estimated that such a prohibition could, even under deeply conservative assumptions, reduce Missouri's Gross State Product (GSP) by a present value of \$14 billion over the next 25 years with an associated reduction in state tax revenue of \$526 million.¹ The immediate costs to state and local government estimated under the state's fiscal note process are considerable, but necessarily less pronounced given the long timeline needed for accrual of research funding and the regulated process that governs the development and implementation of successful health care treatments. An analysis of the near term cost to state and local government is set-out below.

Near Term Tax Revenue Losses Resulting from a Prohibition on Missouri Stem Cell Research, Stowers Institute Phase II:

The Stowers Institute is a biomedical research organization that conducts basic research on genes and proteins that control fundamental processes in living cells. The Institute's stated goal is to "unlock the mysteries of disease and find the keys to their causes, treatment, and prevention." The Stowers Institute opened in November of 2000.

¹ Haslag, Joseph and Long, Brian, "The Missouri Stem Cell Research and Cures Initiative: An Economic and Health Care Analysis," The Missouri Coalition For Lifesaving Cures, August, 2006.

It occupies a 10-acre research campus in Kansas City, Missouri. The 600,000 square-foot, \$300 million facility houses laboratories, research support facilities, administrative services, and a maintenance team. In 2006, the Institute housed 20 independent research programs plus three technology development programs in bioinformatics, proteomics and imaging, and nearly 300 scientists, research associates, technicians and support staff.

The Stowers Institute has long planned a major expansion, referred to as “Phase II,” that would double the size of both its physical facility and staff.² The Institute has already acquired a 100 acres tract of land in Kansas City, Missouri for the expansion. The expansion would focus on early stem cell research, but is entirely contingent on Missouri maintaining a legal and regulatory climate that is not hostile to stem cell research.

Under threat of an anti-stem cell research measure being placed on the ballot in Missouri, the Stowers Institute announced in June of this year that it would indefinitely suspend its Phase II expansion “until the environment for embryonic stem cell research in Missouri stabilizes....”

Passage of the proposed anti-stem cell ballot initiative petition would further destabilize the research climate in Missouri. Conversely, defeat of the proposed measure and the resulting preservation of existing stem cell research protections in the Missouri Constitution would add stability to the stem cell research climate in Missouri.

Cancellation of the Phase II expansion would have immediate negative economic consequences for Missouri. Specifically, Missouri will not realize the economic benefits associated with the expansion’s construction costs of approximately \$500 million and salaries for approximately 350 additional employees. In the meantime, the state will not receive tax revenue resulting from both foregone research and development activities and reduced flow of direct investment that would have been generated by the 600,000 square foot expansion project worth a projected \$500 million. State GSP will necessarily be

² Annual Report for Stowers Institute for Medical Research/Stowers Institute for Resource Development, 2004.

reduced by both the direct investment associated with construction and the return on that investment.

The direct investment in the Phase II physical plant is a net capital inflow into the state. Therefore, Missouri GSP will increase by the full amount of this investment.³ The flow of additional GSP comes from the returns to investment spending in place. If it proceeds, the \$500 million Phase II expansion would be completed over approximately three years. We can reasonably assume an investment schedule as follows: \$150 million in FY2009, \$150 million in FY2010, and \$200 million in FY2011.

Historically, the return on physical capital in the United States is 7 percent. If a more conservative estimate of 6.5% is used, the present value of the return to capital from the \$500 million investment would total \$9,750,000 in FY2009 (6.5% of the \$150 million investment from the previous year), \$19,500,000 in FY2010 (6.5% of the cumulative investment of \$300 million from the two previous years), and \$32,500,000 in FY2011 (6.5% of the cumulative investment of \$500 million). These sums represent foregone GSP that would have been paid to factors of production located in Missouri. As such, we treat the lost return on physical capital as foregone GSP for Missouri.

Table 1 summarizes the economic impact of potential cancellation of Stowers Phase II. In FY2008, present value GSP would be reduced by \$146 million, in FY2009, by \$280 million, by \$403 in FY2010, and by \$386 million in 2011.

³ The resources necessary to construct the Stowers Institute Phase II are currently not employed in Missouri. As such, workers emigrating from places outside Missouri, unemployed Missourians, or otherwise unemployed resources are used in construction. Hence, the investment is treated as an expansion of the productive capacity of the Missouri economy.

Table 1

Impact on the Missouri Economy of Canceling Stowers Institute Phase II

Year	Direct GSP Lost From Construction Investment	GSP Lost From Return on Phase II Investment	Total Lost GSP	Total Lost MO Tax Revenue
2008	\$150,000,000	\$0	\$146,000,000	-----
2009	\$150,000,000	\$9,750,000	\$280,000,000	\$10,640,000
2010	\$200,000,000	\$19,500,000	\$403,000,000	\$15,314,000
2011	\$0	\$32,500,00	\$386,000,000	\$14,668,000

Missouri's net general revenue has historically averaged 3.8 percent of GSP. Therefore, it can be estimated that a potential cancellation of Stowers II would mean revenues paid to state government will be \$10,640,000 lower in FY2009, \$15,314,000 lower in FY2010, and \$14,668,000 lower in FY2011.

Additional Tax Revenue Losses Due to Reduced R&D Expenditures:

Economics literature has established a positive relationship between research and development (R&D) and economic growth. The basic idea is simple: through R&D people gain valuable information that frequently results in increased productivity. This increased productivity is reflected in greater economic growth as expressed in GSP. Conversely, reductions in spending on R&D will have a negative effect on GSP and related state tax revenues.

The relationship between R&D and GSP has been quantified and can be expressed as -- one percentage point increase in R&D spending will result, on average, in a 0.14 percentage point increase in real GSP per worker.⁴

Local Tax Revenue Losses:

The Stowers Institute Phase II is projected to employ an additional 350 people. The Stowers Institute currently employs 350 people at an average salary and benefits of \$75,500. We assume that the average salary and benefits will apply to the expansion so that additional employee expenses will total \$11,325,000 million per year for Stowers Phase II.

Insofar as the Stowers Institute salaries will be subject to the earnings tax in Kansas City, there is also an effect on municipal revenues that can be quantified reliably. With \$11,325,000 million in salary and wages paid and subject to the 1 percent earnings tax, Kansas City will forego \$113,325 in annual revenues if the Phase II expansion was cancelled.

The “Chilling Effect” of a Ban on Stem Cell Research:

In addition to the loss of state tax revenues identified above, a much greater negative impact will occur if additional R&D leaves the state. Investors could conclude that Missouri laws are unpredictable and antagonistic to the research environment as evidenced by a ban on certain stem cell research. In fact, the *Kansas City Star* reported in February of 2005 that, “A recent survey of life science companies based in St. Louis conducted by [William] Danforth found that 10 of the 14 companies polled said they

⁴ Haslag, Joseph H., Mark Ehlert and SuZanne Troske, (2005), “The Show-Me Missouri Innovation Index 2005,” A report commissioned by the Missouri Technology Corporation.

would be less likely to remain in Missouri if the [somatic cell nuclear transfer stem cell research ban then under consideration by the Missouri General Assembly] is approved.”⁵

A September 2007 follow-up survey of eleven St. Louis area science and technology companies by the Coalition for Plant and Life Sciences, the Center for Emerging Technologies, and the Nidus Center for Scientific Enterprise⁶ had the following findings regarding the currently proposed anti-stem cell initiative petition:

- 56% said the new amendment would make them less likely to keep their company in Missouri
- 44% said it would have no effect
- 0% said it would make them more likely to remain in Missouri

- 73% said the new amendment would make it more difficult to recruit scientists and other talent to Missouri
- 18% said it would have no effect
- 9% said it would make it easier to recruit scientists and other talent to Missouri

- 73% said the new amendment would make it more difficult to attract investors and capital to their company in Missouri
- 27% said it would have no effect
- 0% said it would make it easier to attract investors

- 73% said the new amendment would increase the pressure to relocate their company to another state
- 27% said it would have no effect
- 0% said it would decrease the pressure to relocate

- 73% said the new amendment would increase the likelihood that existing companies would avoid Missouri when considering whether to locate here
- 18% said it would help attract companies to Missouri
- 9% said it would have no effect

- 82% said the new amendment would make entrepreneurs considering starting a company in Missouri more likely to start their company in another state
- 18% said it would have no effect

⁵ Carlson, Heather, “Reseachers: Therapeutic Cloning Ban Could Hurt Economy,” Associated Press, Kansas City Star, February, 14, 2005.

⁶ Coalition for Plant and Life Sciences, the Center for Emerging Technologies, and the Nidus Center for Scientific Enterprise, “Survey of Life Sciences Companies and Investors re Impact of Proposed Anti-Stem Cell Initiative,” September 11, 2007.

- 0% said it would make entrepreneurs more likely to start their company in Missouri

In the same survey, seven Missouri-based venture capital firms and investor organizations were unanimous in their agreement that the proposed amendment would harm Missouri's business climate.

- 100% said the new amendment would make it more difficult to relocate existing companies to Missouri
- 0% said it would be easier to relocate companies to Missouri
- 100% said the new amendment would make it more difficult to establish new companies in Missouri.
- 0% said it would be easier to establish companies in Missouri

Finally, University of Missouri Interim President Gordon H. Lamb recently warned that the currently proposed initiative petition could “permanently destroy the future of research in the state and in its universities.”⁷

Direct spending on biotechnical research in Missouri has been conservatively estimated at \$1.3 billion (direct and indirect spending has been estimated at \$2.3 billion).⁸ Therefore, the “chilling” effect of a prohibition on stem cell research could have significant costs to the state from reduced R&D expenditures in other research-based industries.

A reduction of research activity in Missouri of only ten percent will have a substantial negative effect on state GSP and state revenue collections. According to The National Science Foundation, research and development spending in Missouri totaled \$3.04 billion in 2005 (the most recent data available). A ten percent chill translates into a reduction in research and development spending equal to \$304 million. This reduction

⁷ Lamb, Gordon H., “Statement from University of Missouri Interim President Gordon H. Lamb regarding proposed anti-research constitutional amendment”, September 7, 2007.

⁸ Milken Institute, Biopharmaceutical Industry Contributions to State and U.S. Economy, October 2004, p. 73., Wallace, Ki, Murphy, and Koepp. Alternatively, another estimate of the health science biotechnology sector's impact on the Missouri economy totals \$3.15 billion, “Health Science Biotechnology in Missouri, Economic Sector Analysis, Research and Planning, Missouri Department of Economic Development, December 28, 2000, David J. Peters.

will directly impact the state's economy and productivity growth will decline by 0.13 percentage points. With slower productivity growth, GSP over the next three years will decline by \$1.7 billion in FY2009, by \$2.1 billion in FY2010, and by \$2.5 billion in FY2011.

As indicated earlier, net general revenue is, on average, 3.8 percent of GSP. This suggests that a ten percent decline in R&D resulting from the chilling effect of the proposed amendment will, after discounting, result in a cumulative net general revenue decline of \$239.4 million over the next three fiscal years.

Regional Effects

The chilling effect on research affects productivity growth statewide. The Kansas City, St. Louis, and Columbia regions are likely to be particularly affected by reductions to research and development spending. The University of Missouri System accounts for roughly 20 percent of the more than \$3.04 billion R&D spending in Missouri. The campuses in Columbia, Kansas City and St. Louis account for the majority of the UM System R&D spending.

Further evidence of the concentration of R&D activity comes from the United States Bureau of Labor Statistics wage data for different industries. In 2006, scientific and engineering research workers in Missouri private companies received more than \$956 million in wage income. Of this amount, workers in St. Louis City, St. Louis County and St. Charles County accounted for 79 percent of the wage income. Jackson County workers were paid over \$125 million, or about 13 percent of the amount.

A chilling effect on R&D would disproportionately affect these local economies. To illustrate the impact on the local economies, note that with the chilling effect, slower productivity growth reduces GSP by about 0.5 percentage point over the three years. If the impact is distributed according to population (leave alone disproportionate

concentrations as is more likely the case) the St. Louis metro area would lose \$331 million in personal income a year. Likewise, the Kansas City metro area would see personal income fall by more than \$154 million and Boone County's personal income would decline by nearly \$20 million a year. The exact cost of this personal income loss to local governments is dependent on their boundaries and tax structure, but clearly significant.

Table 2

Summary of Potential Impact on the Missouri Economy of Banning Certain Stem-Cell Research

STATE IMPACT

	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>
GSP Reduction			
Loss of Stowers Phase II	\$280m	\$403m	\$386m
State Tax Revenue			
Loss of Stowers Phase II	\$10.6m	\$15.3m	\$14.7m
(3.8% of GSP)			
GSP Reduction			
10% Chilling Effect on R&D	\$1.7b	\$2.1b	\$2.5b
State Tax Revenue			
10% Chilling Effect on R&D	\$64.6m	\$79.8m	\$95m
(3.8% of GSP)			
TOTAL LOSS OF STATE			
TAX REVENUE (Phase II + chill)	\$75.2m	\$95.1m	\$109.7m
LOCAL GOVT.			<u>Annual</u>
IMPACT			
K.C. Loss of Stowers II			
Personal Income			\$113m
K.C. Loss Stowers Phase II			
Earnings Tax			\$113k
K.C. Loss of Personal Income			
10% Chilling Effect on R&D			\$154m

St.L. Loss of Personal Income	\$331m
10% Chilling Effect on R&D	
Boone Co. Loss of Personal Income	\$20m

Updated Information For Fiscal Note Comment Paper:

Information Relating to the Impact of Proposed Anti-Stem Cell Research/Cures Initiative Petition

Page 1: Line one --- Strike the word "on";

Page 4: Second full paragraph, line one, end of sentence --- add footnote:

Peter N. Ireland, (1994), "Supply-side economics and endogenous growth," *Journal of Monetary Economics*, 33(3), 559-71;

Page 5: First full paragraph, line one, end of sentence --- add footnote:

Joseph H. Haslag, Mark Ehlert and SuZanne Troske, "The Show-Me Innovation Index: a report commission by the Missouri Technology Corporation," June 2005;

Page 5: Second full paragraph, line two, end of sentence --- add footnote:

Charles I. Jones (1995), "R&D-based models of economic growth," *Journal of Political Economy*, 103(4), 759-84;

Page 6: Second and third full paragraphs --- replace paragraphs with following:

The Stowers Institute Phase II is projected to employ an additional 600 to 750 people. The Stowers Institute currently employs 350 people at an average salary of \$56,500. We assume that the average salary will apply to the expansion so that additional employee wages will total \$33.9 million per year using the lower estimate of 600 additional employees for Stowers Phase II.

Insofar as the Stowers Institute salaries will be subject to the earnings tax in Kansas City, there is also an effect on municipal revenues that can be quantified reliably. With \$33.9 million in wages subject to the 1 percent earnings tax, Kansas City will forego \$339,000 in annual revenues if the Phase II expansion is cancelled.;

Page 10: Local Govt. Impact Table, first line --- replace "113m" with:

"\$339k."

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (07-16)**

Subject

Initiative petition from Lori Buffa regarding a proposed constitutional amendment to be known as Article III, Section 38(e). (Received September 5, 2007)

Date

September 25, 2007

Description

This proposal would amend Article III of the Constitution of Missouri by adding Section 38(e). This new section makes it unlawful to clone or attempt to clone a human being as defined in the section. In addition, this section prohibits the use of tax payer dollars for cloning or attempting to clone a human being or to research or experiment using human embryos derived from cloning or attempting to clone a human being.

The amendment is to be voted on in November, 2008.

Public comments and other input

The State Auditor's Office requested input from the **Attorney General's Office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's Office/Office of Administration**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Office of State Courts Administrator**, the **Department of Transportation**, the **Missouri Senate**, the **Secretary of State's Office**, the **Office of the State Public Defender**, the **State Tax Commission**, the **State Treasurer's Office**, **Cole County**, **Greene County**, **Jackson County**, **St. Louis County**, the **City of Columbia**, the **City of Jefferson**, the **City of Kansas City**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal School District #60**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community Colleges**, the **University of Missouri**, **St. Louis Community College**, the **University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, **Truman State University**, the **Missouri Technology Corporation**, and the **Missouri Life Sciences Research Board**.

Brad Ketcher of the Ketcher Law Firm, LLC provided information to the State Auditor's Office.

Assumptions

Officials from the **Attorney General's Office** indicated that any potential costs arising from the implementation of this proposal can be absorbed with existing resources. However, they assumed that because this proposal has the potential to be the subject of state and federal litigation, potential costs are unknown.

Officials from the **Department of Economic Development** indicated this proposal would have a significant negative impact on General Revenue, federal funds and local funds. The department anticipates a negative impact on public and private research institutions as well as on economic development efforts of local and regional government. In addition, they indicate that the passage of this constitutional amendment could have significant impact on small technology business growth and development.

The department assumes that placing the issue on the ballot by initiative petition will have no impact on General Revenue. However, they indicate that passage of the ballot initiative could have impact on the general revenue of this state. While the department did not make any fiscal projections, they do anticipate that this could have a significant economic impact and therefore impact general revenue.

This bill should have no known direct administrative or fiscal impact on the department. However, they do indicate there is a possibility that impact on the state general revenue could impact their agency to an unknown extent. If passed, this proposal could impact the department's mission to attract and retain business as well as grow business within the state.

The department also indicated that passage of the constitutional amendment could have significant economic impact on future research, entrepreneurship, and business development within Missouri. The department did not conduct any specific fiscal or economic projections on the impact of the constitutional amendment. However, they do anticipate that future projects and opportunities could be put at risk by passage of this amendment.

The **Department of Health and Senior Services** indicated no impact as a result of this initiative petition.

The **Department of Insurance, Financial Institutions and Professional Registration** indicated this proposed amendment will have no cost to the department.

The **Department of Public Safety** indicated there is no fiscal impact for this petition on the director's office.

Officials from the **Governor's Office/Office of Administration** indicated passage of this proposal should not result in additional costs or savings to their agencies.

Officials from the **Missouri House of Representatives** anticipates no fiscal impact as a result of the initiative petition.

The **Department of Conservation** indicated no fiscal impact expected to their agency as a result of proposal.

The **Office of the State Courts Administrator** indicated that the proposed initiative petition should not have a fiscal impact on the judiciary.

Officials from the **Secretary of State's Office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.6 million historically appropriated in even numbered fiscal years and \$100,000 appropriated in odd numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2007, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.2 million to publish (an average of \$193,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this proposed constitutional amendment will have no significant impact on their office.

The **State Tax Commission** indicated this petition will not impact their organization.

Officials from the **State Treasurer's Office** indicated that there is no fiscal impact on their office as a result of this petition.

The **City of Jefferson** indicated that they do not anticipate any fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated this proposal will restrict the medical research performed in Kansas City by forbidding certain stem cell research, including somatic cell nuclear transfer.

It is estimated that the City received earnings taxes of almost \$171,000 in 2006 just from the work force at the Stowers Institute for Medical Research/Stowers Institute for Resource Development. It is also estimated that the State of Missouri earned almost

\$763,000 in state income taxes. The Greater Kansas City Community Foundation reported in 2005 that the Stowers Institute for Medical Research is projected to increase funding each year by 20% to 25%, so that by 2015 it will be conducting \$300 million of research annually. That represents a continuous significant increase in earnings tax receipts (1% of gross salary). The Stowers Institute has doubled in personnel since 2005 and is estimated to increase again by another 50%, to about 550 scientists, researchers, staff support and other employees.

Although not pinpointed by city, but rather by the Kansas City, Missouri-Kansas area, the Kansas City Area Life Sciences Institute has estimated that 58% of the life science companies will increase employment over the next 36 months - assuming no change in the regulatory environment for this research. The Kansas City Area Life Sciences Institute reports that three dozen of the 145 companies or private organizations - one in four - involved in human life science research in the region are located within Kansas City.

The Kansas City Area Life Sciences Institute estimates that the counties in which Kansas City is located contain over 8,000 jobs in the life sciences. Of course, not all of those jobs relate to research involving SCNT, but the important fact is that there is in the Kansas City, Missouri - Kansas area significant life sciences jobs. That these jobs can be clustered sustains the larger growth in this field of medical research. Eliminating research using SCNT will erode the cluster effect of the remaining jobs and increase the adverse financial impacts felt by the area. Therefore, the loss of earnings tax should be considered the lowest amount of adverse financial impact since adoption of the proposed Constitutional Amendment will result in a reduced cluster of jobs.

The lost of employment represented by earnings tax of \$171,000 is roughly \$17.1 million in gross earnings. The loss of sales tax from the transfer of those jobs to another state where SCNT research would be lawful is significant. The City of Kansas City estimates in its current budget earnings tax receipts of \$199,250,000 and sales tax receipts of \$157,781,250, or about 79% of the earnings tax. If that ratio remained constant, the loss of \$171,000 in earnings tax represents an additional loss of about \$135,000 in sales tax just from the loss of the Stowers Institute for Medical Research / Stowers Institute for Resource Development and all of its jobs. Again, these estimates are the lowest estimates because of the planned expansion of the Stowers Institute - if the legal environment for stem cell research as guaranteed by current law is continued.

The financial impact of these jobs leaving the Kansas City area also will include the loss of the multiplier affect as payroll is recirculated within a local economy.

The **City of St. Louis** indicated that the fiscal impact of the proposed constitutional amendment will be both extremely serious and extremely negative with \$14.3 million in annual lost revenue as a conservative estimate of this negative impact on the city.

The new initiative petition filed by opponents of stem cell research purports to ban "human cloning." In addition to what is commonly thought of as "human cloning"—a

practice already banned by the Missouri Constitution—the amendment will ban one of the most promising new types of stem cell research, somatic cell nuclear transfer or “SCNT,” a procedure for medical research or for treating disease that involves replicating (or “cloning”) a patient’s own skin cell in a lab dish in order to create healthy new cells to help treat his or her disease. This process is currently permitted by the Missouri Constitution but would be banned if the proposed amendment is passed. SCNT is also sometimes referred to as “therapeutic cloning” because the cells are copied for the purpose of providing or developing a therapy for a patient’s disease or injury.

The economy of the City of St. Louis is closely tied to the City’s image as a cutting edge center for medical research. The City of St. Louis ranks 12th in a listing of the Top 100 Cities for grants from the National Institutes of Health, with \$441 million in grants flowing into the City in 2005 from NIH sources. This \$444 million represents 85% of all NIH support flowing into the State of Missouri. These grants support our hospitals and medical schools (Washington University School of Medicine, St. Louis University, Barnes-Jewish Hospital, and St. Louis Children’s Hospital), and, assuming that 60% of the funding pays salaries, account for approximately 5,300 jobs in the City. If only half of these jobs are lost—and it is a given that many of these jobs will be lost over time if this amendment is passed—the City will lose \$1.3 million in revenue each year— $\$50,000 \times 5,300 \times 50\% \times .01$ City earnings tax.

As the following table shows, the City’s hospitals alone account for nearly 19,000 jobs in the City, and other medical, professional and scientific and technical occupations account for an additional 15,000 jobs. Thus, 34,000 of the City’s 221,000 jobs—nearly 17%—are related to medical research and treatment and related professional occupations. Many additional jobs reside in the City’s colleges and universities—because colleges and universities do not report their employment data in the same manner as other places of business, detailed job and wage data for colleges and is not available from the U. S. Bureau of Labor Statistics.

A threat to ban and criminalize any type of medical research puts a black cloud over our entire state. Scientists in general will view Missouri as a regressive and unfriendly place for life sciences research, and those who make careers of cutting-edge research will not locate in Missouri. In recruiting scientists and companies, perception of the research environment is very important. Some scientists have already said that they would not come to Missouri due to threats to overturn Amendment 2 and potentially criminalize research. The initiative petition now proposed will have a drastic impact on our universities and medical schools. These schools are the engines that drive both our existing medical and research facilities and the promise of a thriving concentration of young and mature science-based companies, like those who are beginning to occupy the CORTEX campus.

The proposed amendment will not only discourage growth in the institutions and businesses directly impacted by the amendment—the deleterious impact on health care over time will also impact the quality and size of our hospitals and our City’s ability to attract and retain talent and employers from any industry. Quality of life, in particular

quality of available medical care, has become a top issue in the selection of company locations. St. Louis enjoys access to some of the world's premier health care facilities in Washington University, the BJC Medical Center, and Saint Louis University, all of which are teaching hospitals. The regressive negative intellectual environment created by opposition to the newest medical research and treatments will certainly erode this quality of care as it will no longer be possible to attract top students for these schools and top professionals to staff the hospitals. This proposed Constitutional Amendment banning promising forms of stem cell research would also criminalize any patient who might one day get a cure from such a procedure, thus costing these hospitals patients. Again, restricted access to the newest areas of medicine erodes the quality of life we take for granted from the great medical institutions available to us now.

RESEARCH-RELATED JOBS AND WAGES IN THE CITY OF ST. LOUIS

Source: U. S. Bureau of Labor Statistics--2006

TYPE	BUSINESSES	JOBS	TOTAL ANNUAL WAGES	% OF TOTAL BUSINESSES	% OF TOTAL JOBS	% OF TOTAL WAGE BASE
Medical Equipment & Supplies Manufacturing	15	516	19,613,949	0.19%	0.23%	0.19%
Professional, Scientific & Technical Services	889	14,642	952,212,500	11.11%	6.63%	9.12%
Hospitals	13	18,634	769,206,410	0.16%	8.43%	7.37%
TOTALS--LIFE SCIENCES RELATED:	917	33,792	1,741,032,859	11.46%	15.29%	16.67%
City of St. Louis Totals:	8,000	221,000	10,442,455,000	100.00%	100.00%	100.00%

A 10% loss of jobs in the three categories shown in the above table will cost the City more than \$10 million each year in direct loss of the 1% City earnings tax from these employees. It is also safe to say that this 10% loss will have a similar ripple effect in the thousands of other employees who serve the needs of the hospitals—laundry services, transportation, construction, wholesale food sales, and others.

In addition, passage of the proposed amendment will cost the City growth. The Battelle Institute of Cincinnati has already predicted that if current trends (absent this amendment) continue, Missouri will be eclipsed as a life science-driven economy by other states and regions. On the other hand, Battelle also predicts that if the state aggressively pursues the life sciences and makes the necessary investments over the next ten years in the research capacity and technology commercialization areas, the state would add more than 21,000 permanent jobs in life science industries, for the most part well-paid, quality employment. Conservatively assuming that one fourth of these jobs would be located in the City, given the City's predominance as a center for medical research, further assuming conservatively that each new job had a salary of \$50,000 per year, and further assuming that this salary grew by 3% each year, the loss of these new jobs to the City would cost the City an average of \$3 million per year once these jobs were fully situated. Again, it is also safe to say that this loss will have a similar ripple effect in the thousands of other employees who could be hired to serve the needs of the growing hospitals and

research/development businesses—laundry services, transportation, construction, wholesale food sales, and others.

In summary, we therefore conservatively estimate that the proposed amendment will cost the City of St. Louis a minimum of \$14.3 million per year in direct general revenue—approximately 3.5% of the City's general revenue budget—and countless millions more in indirect revenue. This is a loss that the City cannot tolerate in the face of rising costs and rising service needs.

As the Battelle Institute report stated in 2003, "If Missouri does not choose its 'fork in the road' consciously, deliberately, and with full knowledge of the consequences, it may take a fork that neither it nor its citizenry chooses. ...one fork may take Missouri to 21,000 additional well-paying jobs, \$7.2 billion in additional gross regional product, and more than \$3.9 billion in real disposable income over the next decade. The other fork may not only cost the state these jobs, but, if the state and the private sector simply continue existing trends, it may also mean further significant job and economic losses in key life science industries such as drugs and pharmaceuticals and medical devices."

A ban on SCNT will seriously harm the Missouri economy and its life science industry, in particular that industry in the City of St. Louis. The threat of such a ban has already caused harm in Kansas City, where the noted Stowers Institute has been unable to recruit the scientists necessary to carry out the Institute's work. If the Institute expands in another state, Missouri will lose millions of dollars in economic benefit directly related to stem cell research that is not "human cloning." Human cloning is currently banned by the Missouri Constitution. Opponents of stem cell research have falsely claimed that human cloning is not banned, because they also want to forbid promising medical procedures that require the copying of cells. However, the terminology, the concepts, and the distinction used in the Missouri Constitution are the same as used by America's most respected doctors and scientists.

America's most respected doctors and scientists believe that "reproductive cloning" should be banned, but that "therapeutic cloning" should be encouraged because it holds great medical promise to lead to cures for debilitating diseases—this is also the current philosophy espoused in the Missouri Constitution. In 2002, forty Nobel Prize Winners sent a letter to members of the U.S. Senate making this important distinction. Nobel Prize-winning Scientist Paul Berg has stated that "cloning humans and 'therapeutic cloning' are fundamentally different. The cloning of a human being should be prohibited. Therapeutic cloning, on the other hand, is meant to produce stem cells, not babies." What the proposed amendment would ban is the same procedure that stem cell research opponents have tried unsuccessfully to ban in the legislature for the past five years. The passage of the "Stem Cell Amendment" in late 2006 ended the legislative battle. That battle has now moved to the voting booth with the proposal for this amendment.

In an effort to help quantify the economic impact of a new effort to undo Missouri's constitutional research and cures protections, the Coalition for Plant and Life Sciences, the Center for Emerging Technologies, and the Nidus Center for Scientific Enterprise

collaborated on a survey of St. Louis science and technology-based companies and St. Louis investment firms and organizations that specialize in investments with science-based companies. This survey sought to measure the potential impact of this new proposal.

Responses were received from eleven science and technology companies. The results, summarized below, clearly demonstrate that an overwhelming majority of the leaders of these companies would find the amendment to be a severe impediment to growing their companies in Missouri, that a majority of respondents would consider moving their companies out of Missouri if the amendment passes, and that a majority of respondents believe that the amendment would be perceived as an anti-research initiative that would make Missouri an unattractive location for the high growth science-based companies that have become a major part of the City's bread and butter.

- 55% said the new amendment would make them less likely to keep their company in Missouri
- 45% said it would have no effect
- 0% said it would make them more likely to remain in Missouri

- 73% said the new amendment would make it more difficult to recruit scientists and other talent to Missouri
- 18% said it would have no effect
- 9% said it would make it easier to recruit scientists and other talent to Missouri

- 73% said the new amendment would make it more difficult to attract investors and capital to their company in Missouri
- 27% said it would have no effect
- 0% said it would make it easier to attract investors

- 73% said the new amendment would increase the pressure to relocate their company to another state
- 27% said it would have no effect
- 0% said it would decrease the pressure to relocate

- 73% said the new amendment would increase the likelihood that existing companies would avoid Missouri when considering whether to locate here
- 18% said it would help attract companies to Missouri
- 9% said it would have no effect

- 82% said the new amendment would make entrepreneurs considering starting a company in Missouri more likely to start their company in another state
- 18% said it would have no effect
- 0% said it would make entrepreneurs more likely to start their company in Missouri

The seven Missouri-based venture capital firm and investor organization respondents were unanimous in their agreement that this newly proposed amendment would harm Missouri's business climate by overturning our current protections for science and research.

- 100% said the new amendment would make it more difficult to relocate existing companies to Missouri
- 0% said it would be easier to relocate companies to Missouri
- 100% said the new amendment would make it more difficult to establish new companies in Missouri.
- 0% said it would be easier to establish companies in Missouri

It is important to note that none of the surveyed companies or investors is involved in stem cell research. That being the case, these results are evidence of the serious harm that this proposed amendment would wreak, not just on companies involved in stem cell research but on the wide variety of companies in Missouri that depend on scientific research for their survival and growth. Any threat to science of any type creates a chilling environment and negatively affects our business climate.

While it is not possible to quantify the results of this survey in terms of specific economic impact on the City of St. Louis, we believe these results clearly support the above assertions that if the amendment passes the City will lose both existing jobs and new opportunities, and as a result will lose, at a minimum, the \$14 million per year in revenue referenced above.

In summary, the negative impact on the amount of research and the consequential economic development emerging from the scientific research that would result from the proposed amendment would impact the City of St. Louis disproportionately: the City would suffer a very substantial reduction in scientific and medical activity and the sacrifice of significant future growth potential. As the chart above shows, medical research and treatment are extremely significant parts of St. Louis's current economy; as the CORTEX initiative and the Battelle report demonstrate, these economies are also very important parts of our future. As the survey results demonstrate, businesses involved in scientific research of all types and the businesses involved in raising capital for these research businesses would seriously question their futures in Missouri. Given the negative attitudes of businesses already ensconced in Missouri to the passage of this amendment, it is also obvious that businesses outside Missouri would have equally if not more strongly negative attitudes and would not locate in the City of St. Louis or Missouri.

Officials from **Linn State Technical College** indicated there appears to be no fiscal impact on their organization as a result of this initiative petition.

Metropolitan Community College indicated this proposed amendment would have no significant fiscal impact on their organization.

The **University of Missouri** indicated the proposed amendment's greatest potential impact is on the University's ability to retain and recruit top researchers who will contribute to the research enterprise to the ultimate benefit of the state's economy. The perception that a state has a hostile attitude toward research can have a dampening effect on recruitment and retention of faculty. Legal restrictions on research, such as those this amendment would impose, will have a deleterious effect on faculty perceptions and a negative impact on the University's ability to conduct cutting edge research.

Competition to retain and attract research faculty is exceedingly high. Faculty consider many factors when deciding whether to stay in current positions or accept offers in other states include: supportive environment for research, level of state and private support, institutional reputation, and availability of modern research facilities. However, a faculty member's career decisions are personal in nature. Thus it is not possible to determine with any precision the costs in terms of lost productivity, grants, human capital, and subsequent impact on the state economy.

The **University of Central Missouri** indicated this initiative will not affect their organization as they do not engage in stem cell research or medical research involving human organisms.

Officials from **Lincoln University** indicated the proposed amendment will not have a cost impact on their organization as they are not engaged in research activities relative to human cloning.

Officials from **Missouri State University** indicated that they do not perceive there to be any fiscal impact on their organization as a result of this proposed constitutional amendment.

Missouri Southern State University has determined that the proposed constitutional amendment would not have any fiscal impact on their operations.

Missouri Western State University does not anticipate any direct fiscal impact as a result of this initiative petition.

Officials from **Northwest Missouri State University** determined that this measure would have no estimated costs or savings impact on their organization.

Truman State University indicated no fiscal impact on their organization.

Mr. Brad Ketcher of the Ketcher Law Firm, LLC provided fiscal impact information related to the proposal which is summarized as follows:

STATE IMPACT

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
GSP Reduction	\$280m	\$403m	\$386m
Loss of Stowers Phase II			
State Tax Revenue	\$10.6m	\$15.3m	\$14.7m
Lose of Stowers Phase II			
(3.8% of GSP)			
GSP Reduction	\$1.7b	\$2.1b	\$2.5b
10% Chilling Effect on R&D			
TOTAL LOSS OF STATE TAX	\$64.6m	\$79.8m	\$95m
REVENUE (Phase II + chill)			

LOCAL GOVT IMPACT

	<u>Annual</u>
KC Loss of Stowers Phase II	\$339k
Personal Income	
KC Loss of Stowers Phase II	\$113k
Earnings Tax	
KC Loss of Personal Income	\$154m
10% Chilling Effect on R&D	
St. Louis Loss of Personal Income	\$331m
10% Chilling Effect on R&D	
Boone Co. Loss of Personal Income	\$20m

The State Auditor's Office did not receive a response from the **Department of Agriculture, Department of Elementary and Secondary Education, the Department of Higher Education, the Department of Mental Health, the Department of Natural Resources, the Department of Corrections, the Department of Labor and Industrial Relations, the Department of Revenue, the Department of Social Services, the Department of Transportation, the Missouri Senate, Cole County, Greene County, Jackson County, St. Louis County, the City of Columbia, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, St. Louis Community College, Harris-Stowe State University, Southeast Missouri State University, the Missouri Technology Corporation, and the Missouri Life Sciences Research Board.**

Fiscal Note Summary

This proposal could have a significant negative fiscal impact on state and local governmental entities due to its prohibition of certain research activities. However, the total costs to state and local governmental entities are unknown.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (08-31)**

Subject

Initiative petition from Todd Jones regarding a proposed amendment to Article III of the Missouri Constitution. (Received March 20, 2008)

Date

April 9, 2008

Description

This proposal would amend Article III, Section 38 of the Missouri Constitution.

The amendment is to be voted on in November, 2008.

Public comments and other input

The State Auditor's Office requested input from the **Attorney General's Office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's Office/Office of Administration**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Office of State Courts Administrator**, the **Department of Transportation**, the **Missouri Senate**, the **Secretary of State's Office**, the **Office of the State Public Defender**, the **State Tax Commission**, the **State Treasurer's Office**, **Cole County**, **Greene County**, **Jackson County**, **St. Louis County**, the **City of Columbia**, the **City of Jefferson**, the **City of Kansas City**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal School District #60**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community Colleges**, the **University of Missouri**, **St. Louis Community College**, the **University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, **Truman State University**, the **Missouri Technology Corporation**, and the **Missouri Life Sciences Research Board**.

Brad Ketcher of the Ketcher Law Firm, LLC provided information to the State Auditor's Office.

Assumptions

Officials from the **Attorney General's Office** indicated that the implementation of this proposal creates no fiscal impact for their office. However, they assumed that because this proposal has the potential to be the subject of state litigation, potential costs are unknown.

Officials from the **Department of Economic Development** indicated this proposal would have a significant negative impact on General Revenue, federal funds and local funds. The department anticipates a negative impact on public and private research institutions as well as on economic development efforts of local and regional government. In addition, they indicate that the passage of this constitutional amendment could have significant impact on small technology business growth and development.

The department assumes that placing the issue on the ballot by initiative petition will have no impact on General Revenue. However, they indicate that passage of the ballot initiative could have impact on the general revenue of this state. While the department did not make any fiscal projections, they do anticipate that this could have a significant economic impact and therefore impact general revenue.

This bill should have no known direct administrative or fiscal impact on the department. However, they do indicate there is a possibility that impact on the state general revenue could impact their agency to an unknown extent. If passed, this proposal could impact the department's mission to attract and retain business as well as grow business within the state.

The department also indicated that passage of the constitutional amendment could have significant economic impact on future research, entrepreneurship, and business development within Missouri. The department did not conduct any specific fiscal or economic projections on the impact of the constitutional amendment. However, they do anticipate that future projects and opportunities could be put at risk by passage of this amendment.

The **Department of Higher Education** indicated no foreseeable direct impact on their department resulting from this proposal.

The **Department of Health and Senior Services** indicated no impact as a result of this initiative petition.

The **Department of Insurance, Financial Institutions and Professional Registration** indicated this proposed amendment will have no cost to the department.

The **Department of Mental Health** indicated this initiative will have no fiscal impact on their department.

The **Department of Natural Resources** does not anticipate a direct fiscal impact from this proposal.

The **Department of Corrections** indicated the impact of this proposal is unknown, but less than \$100,000 per year. Further, the department stated that the penalty provision component of the bill resulting in potential fiscal impact for the department, is for up to fifteen years imprisonment.

The department is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the department, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

The department stated it cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY07 average of \$41.21 per inmate, per day or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender, per day or an annual cost of \$887 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

The **Department of Labor and Industrial Relations** indicated the petition has no fiscal impact on the department.

The **Department of Revenue** indicated the petition will have no impact on the department.

The **Department of Public Safety** indicated there is no fiscal impact for this petition on the director's office.

The **Department of Social Services** indicated no fiscal impact to the department.

Officials from the **Governor's Office/Office of Administration** indicated passage of this proposal should not result in additional costs or savings to their agencies.

The **Department of Conservation** indicated no fiscal impact expected to their agency as a result of proposal.

The **Office of the State Courts Administrator** indicated that the proposed initiative petition should not have a fiscal impact on the judiciary.

Officials from the **Missouri Senate** indicated that the petition appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's Office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.6 million historically appropriated in even numbered fiscal years and \$100,000 appropriated in odd numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2007, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.2 million to publish (an average of \$193,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative will have no significant impact on their office.

The **State Tax Commission** indicated this petition will not impact their organization.

Officials from the **State Treasurer's Office** indicated that there is no fiscal impact on their office as a result of this petition.

Officials from the **City of Columbia** indicated that no fiscal impact is expected from this proposal.

The **City of Jefferson** indicated that they do not anticipate any fiscal impact should this petition become law.

The **City of St. Louis** indicated that the fiscal impact of the proposed constitutional amendment will be both extremely serious and extremely negative with \$14.3 million in annual lost revenue as a conservative estimate of this negative impact on the city.

The new initiative petition filed by opponents of stem cell research purports to ban “human cloning.” In addition to what is commonly thought of as “human cloning”—a practice already banned by the Missouri Constitution—the amendment will ban one of the most promising new types of stem cell research, somatic cell nuclear transfer or “SCNT,” a procedure for medical research or for treating disease that involves replicating (or “cloning”) a patient’s own skin cell in a lab dish in order to create healthy new cells to help treat his or her disease. This process is currently permitted by the Missouri Constitution but would be banned if the proposed amendment is passed. SCNT is also sometimes referred to as “therapeutic cloning” because the cells are copied for the purpose of providing or developing a therapy for a patient’s disease or injury.

The economy of the City of St. Louis is closely tied to the City’s image as a cutting edge center for medical research. The City of St. Louis ranks 12th in a listing of the Top 100 Cities for grants from the National Institutes of Health, with \$441 million in grants flowing into the City in 2005 from NIH sources. This \$444 million represents 85% of all NIH support flowing into the State of Missouri. These grants support our hospitals and medical schools (Washington University School of Medicine, St. Louis University, Barnes-Jewish Hospital, and St. Louis Children’s Hospital), and, assuming that 60% of the funding pays salaries, account for approximately 5,300 jobs in the City. If only half of these jobs are lost—and it is a given that many of these jobs will be lost over time if this amendment is passed—the City will lose \$1.3 million in revenue each year— $\$50,000 \times 5,300 \times 50\% \times .01$ City earnings tax.

As the following table shows, the City’s hospitals alone account for nearly 19,000 jobs in the City, and other medical, professional and scientific and technical occupations account for an additional 15,000 jobs. Thus, 34,000 of the City’s 221,000 jobs—nearly 17%—are related to medical research and treatment and related professional occupations. Many additional jobs reside in the City’s colleges and universities—because colleges and universities do not report their employment data in the same manner as other places of business, detailed job and wage data for colleges and is not available from the U. S. Bureau of Labor Statistics.

A threat to ban and criminalize any type of medical research puts a black cloud over our entire state. Scientists in general will view Missouri as a regressive and unfriendly place for life sciences research, and those who make careers of cutting-edge research will not locate in Missouri. In recruiting scientists and companies, perception of the research environment is very important. Some scientists have already said that they would not come to Missouri due to threats to overturn Amendment 2 and potentially criminalize research. The initiative petition now proposed will have a drastic impact on our universities and medical schools. These schools are the engines that drive both our existing medical and research facilities and the promise of a thriving concentration of young and mature science-based companies, like those who are beginning to occupy the CORTEX campus.

The proposed amendment will not only discourage growth in the institutions and businesses directly impacted by the amendment—the deleterious impact on health care

over time will also impact the quality and size of our hospitals and our City's ability to attract and retain talent and employers from any industry. Quality of life, in particular quality of available medical care, has become a top issue in the selection of company locations. St. Louis enjoys access to some of the world's premier health care facilities in Washington University, the BJC Medical Center, and Saint Louis University, all of which are teaching hospitals. The regressive negative intellectual environment created by opposition to the newest medical research and treatments will certainly erode this quality of care as it will no longer be possible to attract top students for these schools and top professionals to staff the hospitals. This proposed Constitutional Amendment banning promising forms of stem cell research would also criminalize any patient who might one day get a cure from such a procedure, thus costing these hospitals patients. Again, restricted access to the newest areas of medicine erodes the quality of life we take for granted from the great medical institutions available to us now.

RESEARCH-RELATED JOBS AND WAGES IN THE CITY OF ST. LOUIS

Source: U. S. Bureau of Labor Statistics--2006

TYPE	BUSINESSES	JOBS	TOTAL ANNUAL WAGES	% OF TOTAL BUSINESSES	% OF TOTAL JOBS	% OF TOTAL WAGE BASE
Medical Equipment & Supplies Manufacturing	15	516	19,613,949	0.19%	0.23%	0.19%
Professional, Scientific & Technical Services	889	14,642	952,212,500	11.11%	6.63%	9.12%
Hospitals	13	18,634	769,206,410	0.16%	8.43%	7.37%
TOTALS--LIFE SCIENCES RELATED:	917	33,792	1,741,032,859	11.46%	15.29%	16.67%
City of St. Louis Totals:	8,000	221,000	10,442,455,000	100.00%	100.00%	100.00%

A 10% loss of jobs in the three categories shown in the above table will cost the City more than \$10 million each year in direct loss of the 1% City earnings tax from these employees. It is also safe to say that this 10% loss will have a similar ripple effect in the thousands of other employees who serve the needs of the hospitals—laundry services, transportation, construction, wholesale food sales, and others.

In addition, passage of the proposed amendment will cost the City growth. The Battelle Institute of Cincinnati has already predicted that if current trends (absent this amendment) continue, Missouri will be eclipsed as a life science-driven economy by other states and regions. On the other hand, Battelle also predicts that if the state aggressively pursues the life sciences and makes the necessary investments over the next ten years in the research capacity and technology commercialization areas, the state would add more than 21,000 permanent jobs in life science industries, for the most part well-paid, quality employment. Conservatively assuming that one fourth of these jobs would be located in the City, given the City's predominance as a center for medical research, further assuming conservatively that each new job had a salary of \$50,000 per year, and further assuming that this salary grew by 3% each year, the loss of these new jobs to the City would cost the City an average of \$3 million per year once these jobs were fully situated. Again, it is also safe to say that this loss will have a similar ripple effect in the thousands

of other employees who could be hired to serve the needs of the growing hospitals and research/development businesses—laundry services, transportation, construction, wholesale food sales, and others.

In summary, we therefore conservatively estimate that the proposed amendment will cost the City of St. Louis a minimum of \$14.3 million per year in direct general revenue—approximately 3.5% of the City's general revenue budget—and countless millions more in indirect revenue. This is a loss that the City cannot tolerate in the face of rising costs and rising service needs.

As the Battelle Institute report stated in 2003, "If Missouri does not choose its 'fork in the road' consciously, deliberately, and with full knowledge of the consequences, it may take a fork that neither it nor its citizenry chooses. ...one fork may take Missouri to 21,000 additional well-paying jobs, \$7.2 billion in additional gross regional product, and more than \$3.9 billion in real disposable income over the next decade. The other fork may not only cost the state these jobs, but, if the state and the private sector simply continue existing trends, it may also mean further significant job and economic losses in key life science industries such as drugs and pharmaceuticals and medical devices."

A ban on SCNT will seriously harm the Missouri economy and its life science industry, in particular that industry in the City of St. Louis. The threat of such a ban has already caused harm in Kansas City, where the noted Stowers Institute has been unable to recruit the scientists necessary to carry out the Institute's work. If the Institute expands in another state, Missouri will lose millions of dollars in economic benefit directly related to stem cell research that is not "human cloning." Human cloning is currently banned by the Missouri Constitution. Opponents of stem cell research have falsely claimed that human cloning is not banned, because they also want to forbid promising medical procedures that require the copying of cells. However, the terminology, the concepts, and the distinction used in the Missouri Constitution are the same as used by America's most respected doctors and scientists.

America's most respected doctors and scientists believe that "reproductive cloning" should be banned, but that "therapeutic cloning" should be encouraged because it holds great medical promise to lead to cures for debilitating diseases—this is also the current philosophy espoused in the Missouri Constitution. In 2002, forty Nobel Prize Winners sent a letter to members of the U.S. Senate making this important distinction. Nobel Prize-winning Scientist Paul Berg has stated that "cloning humans and 'therapeutic cloning' are fundamentally different. The cloning of a human being should be prohibited. Therapeutic cloning, on the other hand, is meant to produce stem cells, not babies." What the proposed amendment would ban is the same procedure that stem cell research opponents have tried unsuccessfully to ban in the legislature for the past five years. The passage of the "Stem Cell Amendment" in late 2006 ended the legislative battle. That battle has now moved to the voting booth with the proposal for this amendment.

In an effort to help quantify the economic impact of a new effort to undo Missouri's constitutional research and cures protections, the Coalition for Plant and Life Sciences,

the Center for Emerging Technologies, and the Nidus Center for Scientific Enterprise collaborated on a survey of St. Louis science and technology-based companies and St. Louis investment firms and organizations that specialize in investments with science-based companies. This survey sought to measure the potential impact of this new proposal.

Responses were received from eleven science and technology companies. The results, summarized below, clearly demonstrate that an overwhelming majority of the leaders of these companies would find the amendment to be a severe impediment to growing their companies in Missouri, that a majority of respondents would consider moving their companies out of Missouri if the amendment passes, and that a majority of respondents believe that the amendment would be perceived as an anti-research initiative that would make Missouri an unattractive location for the high growth science-based companies that have become a major part of the City's bread and butter.

- 55% said the new amendment would make them less likely to keep their company in Missouri
- 45% said it would have no effect
- 0% said it would make them more likely to remain in Missouri

- 73% said the new amendment would make it more difficult to recruit scientists and other talent to Missouri
- 18% said it would have no effect
- 9% said it would make it easier to recruit scientists and other talent to Missouri

- 73% said the new amendment would make it more difficult to attract investors and capital to their company in Missouri
- 27% said it would have no effect
- 0% said it would make it easier to attract investors

- 73% said the new amendment would increase the pressure to relocate their company to another state
- 27% said it would have no effect
- 0% said it would decrease the pressure to relocate

- 73% said the new amendment would increase the likelihood that existing companies would avoid Missouri when considering whether to locate here
- 18% said it would help attract companies to Missouri
- 9% said it would have no effect

- 82% said the new amendment would make entrepreneurs considering starting a company in Missouri more likely to start their company in another state
- 18% said it would have no effect
- 0% said it would make entrepreneurs more likely to start their company in Missouri

The seven Missouri-based venture capital firm and investor organization respondents were unanimous in their agreement that this newly proposed amendment would harm Missouri's business climate by overturning our current protections for science and research.

- 100% said the new amendment would make it more difficult to relocate existing companies to Missouri
- 0% said it would be easier to relocate companies to Missouri
- 100% said the new amendment would make it more difficult to establish new companies in Missouri.
- 0% said it would be easier to establish companies in Missouri

It is important to note that none of the surveyed companies or investors is involved in stem cell research. That being the case, these results are evidence of the serious harm that this proposed amendment would wreak, not just on companies involved in stem cell research but on the wide variety of companies in Missouri that depend on scientific research for their survival and growth. Any threat to science of any type creates a chilling environment and negatively affects their business climate.

While it is not possible to quantify the results of this survey in terms of specific economic impact on the City of St. Louis, we believe these results clearly support the above assertions that if the amendment passes the City will lose both existing jobs and new opportunities, and as a result will lose, at a minimum, the \$14 million per year in revenue referenced above.

In summary, the negative impact on the amount of research and the consequential economic development emerging from the scientific research that would result from the proposed amendment would impact the City of St. Louis disproportionately: the City would suffer a very substantial reduction in scientific and medical activity and the sacrifice of significant future growth potential. As the chart above shows, medical research and treatment are extremely significant parts of St. Louis's current economy; as the CORTEX initiative and the Battelle report demonstrate, these economies are also very important parts of our future. As the survey results demonstrate, businesses involved in scientific research of all types and the businesses involved in raising capital for these research businesses would seriously question their futures in Missouri. Given the negative attitudes of businesses already ensconced in Missouri to the passage of this amendment, it is also obvious that businesses outside Missouri would have equally if not more strongly negative attitudes and would not locate in the City of St. Louis or Missouri.

Officials from **Linn State Technical College** indicated there appears to be no fiscal impact on their organization as a result of this initiative petition.

Metropolitan Community College indicated this proposed amendment would have no direct fiscal impact on their organization.

The **University of Missouri** indicated this amendment would alter the Stem Cell Amendment (Amendment 2 from 2006) to allow the legislature to punish universities and hospitals for conducting stem cell research by withholding or reducing funding for other programs and have a significant, negative chilling effect on education, research, and economic development across the University of Missouri (UM) System – at all four campuses and their academic health centers.

The proposed amendment, if passed, is projected to have a profound impact on the University's ability to grow and sustain its research operations and meet and exceed its economic development goals. Critical to fulfilling the University of Missouri's mission as the state's public research university is the ability to recruit and retain top faculty researchers who will contribute to the research enterprise to the ultimate benefit of the state's economy. The perception that the state has a hostile attitude toward research, and thus to academic freedom, can have a dampening effect on recruitment and retention of faculty. This amendment could have a deleterious effect on faculty perceptions and a negative impact on the University's ability to conduct cutting edge research that will extend beyond the life sciences.

Competition nationwide to attract and retain research faculty is exceedingly high. Faculty members consider many factors when deciding whether to stay in current positions or to accept offers from other states, including: supportive environment for research, level of state and private support, institutional reputation, and availability of state-of-the-art research facilities. A study conducted in 2006 by the National Bureau of Economic Research demonstrated the importance of attracting and retaining "research stars". These research stars in turn attracted other research stars that would concentrate in the area - increasing the number of start-up firms and economic activity in the area. The stars and the surrounding start-up firms would generate additional patents and invention disclosures – spinning off economic development with resulting growth in jobs and transforming economic activity in the area. Thus this concentrated effort results in the "rich getting richer" by virtue of the interactive effects of new ideas generating other new ideas. The proposed amendment will seriously impact the University's ability to attract and retain the "stars."

In FY 2007, the University of Missouri generated \$240 million in research expenditures from funding to faculty researchers provided by federal and private sources. The funding primarily provides for the salaries of the researchers and their research staffs, supplies and equipment, and the administrative infrastructure that supports research. Another key element of research funding is providing support for extramural training programs for graduate students and postdoctoral fellows. In a sense, these funds are used to build future scientists. If one assumes that only half of the University's research funding, or \$120 million, is in jeopardy, the direct financial loss to the University would be significant. This loss would come from top researchers leaving the University to go to institutions where there is an open and supportive climate for research and academic freedom. The economic impact on the state would be even greater because recent economic analysis* indicates that every \$1.00 in research funding brought into the state

generates almost \$2.00 in economic output and every \$1.0 million in research funding supports 17 jobs thus reducing economic output by \$240 million and impacting approximately 2000 jobs.

This amendment could also have an impact on the University's ability to support and grow commercialization of new technologies and the formation of new companies that result from the research. The University has a goal to increase revenues from patents and licenses from \$2.3 million in FY 2006 to \$10 million. This amendment would jeopardize this growth in revenues that would be used by the University to reinvest in research and technology transfer operations and in economic development ventures that benefit the entire state such as the Discovery Ridge research park and the new life sciences incubator in Columbia and the Missouri University of Science and Technology Innovation Park in Rolla. A recent MERIC economic impact analysis on Discovery Ridge indicated that continued investment in this project would yield an economic impact of \$33 billion on the state's economy.

Finally, this amendment, if passed, could have a deleterious affect on the University's ability to continue to attract leading medical researchers and physicians to its medical schools and hospitals in Columbia and Kansas City. This would compromise the ability of the University's academic health centers to sustain high quality health care for citizens in the state and to continue to develop cutting edge treatments for the most life threatening medical conditions. This could result in the loss of patients to our hospitals and clinics as citizens of the state seek health care in other states. The fiscal impact of this is difficult to quantify.

*Kaufman, J., Kalaitzandonakes, N, and Johnson, T. "The Economic Role of the University of Missouri in the State.
March 18, 2008.

Harris-Stowe State University indicated this petition will have no fiscal impact on their organization.

Missouri Southern State University indicated they are not a research institution and therefore this initiative would not have a fiscal impact on their organization.

Officials from **Northwest Missouri State University** determined that this measure would have no estimated costs or savings impact on their organization.

Truman State University indicated no direct fiscal impact on their organization can be identified.

Mr. Brad Ketcher of the Ketcher Law Firm, LLC provided fiscal impact information in opposition to the proposal which is summarized as follows:

STATE IMPACT

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
GSP Reduction	\$280m	\$403m	\$386m
Loss of Stowers Phase II State Tax Revenue	\$10.6m	\$15.3m	\$14.7m
Loss of Stowers Phase II (3.8% of GSP) GSP Reduction	\$1.7b	\$2.1b	\$2.5b
10% Chilling Effect on R&D State Tax Revenue	\$64.6m	\$79.8m	\$95m
10% Chilling Effect of R&D (3.8% of GSP)			

LOCAL GOVT IMPACT

	<u>Annual</u>
KC Loss of Stowers Phase II Personal Income	\$339k
KC Loss of Stowers Phase II Earnings Tax	\$113k
KC Loss of Personal Income 10% Chilling Effect on R&D	\$154m
St. Louis Loss of Personal Income 10% Chilling Effect on R&D	\$331m
Boone Co. Loss of Personal Income	\$20m

The State Auditor's Office did not receive a response from the **Department of Agriculture, Department of Elementary and Secondary Education, the Missouri House of Representatives, the Department of Transportation, Cole County, Greene County, Jackson County, St. Louis County, the City of Kansas City, Cape Girardeau 63 School District, Hannibal 60 School District, Rockwood R-VI School District, St. Louis Community College, University of Central Missouri, Lincoln University, Missouri State University, Missouri Western State University, Southeast Missouri State University, the Missouri Technology Corporation, and the Missouri Life Sciences Research Board.**

Fiscal Note Summary

This proposal could have a significant negative fiscal impact on state and local governmental entities if state funds for certain research activities are eliminated, reduced, denied, or withheld. However, the total costs to state and local governmental entities are unknown.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (09-10)**

Subject

Initiative petition from Todd Jones regarding a proposed amendment to Article III of the Missouri Constitution. (Received February 20, 2009)

Date

March 12, 2009

Description

This proposal would amend Article III, Section 38 of the Missouri Constitution.

The amendment is to be voted on in November, 2010.

Public comments and other input

The State Auditor's Office requested input from the **Attorney General's Office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's Office**, the **Office of Administration**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Office of State Courts Administrator**, the **Department of Transportation**, the **Missouri Senate**, the **Secretary of State's Office**, the **Office of the State Public Defender**, the **State Tax Commission**, the **State Treasurer's Office**, **Cole County**, **Greene County**, **Jackson County**, **St. Louis County**, the **City of Columbia**, the **City of Jefferson**, the **City of Kansas City**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal School District #60**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community Colleges**, the **University of Missouri**, **St. Louis Community College**, the **University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, **Truman State University**, the **Missouri Technology Corporation**, and the **Missouri Life Sciences Research Board**.

Brad Ketcher of the Ketcher Law Firm, LLC, provided information to the State Auditor's Office.

Assumptions

Officials from the **Attorney General's Office** indicated that the implementation of this proposal would not directly affect their office. However, they assumed that because this proposal has the potential to be the subject of state and federal litigation, potential costs are unknown.

The **Department of Economic Development** indicated this proposal would have a significant negative impact on General Revenue, federal funds and local funds. The department anticipates a negative impact on public and private research institutions as well as on economic development efforts of local and regional government. In addition, they indicate that the passage of this constitutional amendment could have significant impact on small technology business growth and development as it could create the perception that Missouri is hostile to science and technology.

The department assumes that placing the issue on the ballot by initiative petition will have no impact on General Revenue. However, they indicate that passage of the ballot initiative could have impact on the general revenue of this state. While the department did not make any fiscal projections, they do anticipate that this could have a significant economic impact and therefore impact general revenue.

This bill should have no known direct administrative or fiscal impact on the department. However, they do indicate there is a possibility that impact on the state general revenue could impact their agency to an unknown extent. If passed, this proposal could impact the department's mission to attract and retain business as well as grow business within the state.

It is unclear to the department whether the definition of "human cloning" in the proposed amendment is intended to be the same that contained in Article III, Section 38(d). The department indicated this could foster litigation and an uncertain environment. The department further indicated that passage of the constitutional amendment could have significant economic impact on future research, entrepreneurship, and business development within Missouri. The department did not conduct any specific fiscal or economic projections on the impact of the constitutional amendment. However, they do anticipate that future projects and opportunities could be put at risk by passage of this amendment.

The **Department of Higher Education** indicated no direct, foreseeable fiscal impact on their department resulting from this proposal.

The **Department of Health and Senior Services** indicated no impact as a result of this initiative petition.

The **Department of Insurance, Financial Institutions and Professional Registration** indicated this initiative, if passed, will have no cost or savings to the department.

The **Department of Mental Health** indicated since the department does not perform human cloning, the implementation of this initiative will have no fiscal impact to their department.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

The **Department of Corrections** indicated no impact on their agency as a result of this proposal.

The **Department of Revenue** indicated the petition will not have a fiscal impact on the department.

The **Department of Public Safety** indicated there is no fiscal impact for their department.

The **Department of Social Services** indicated there is no fiscal impact to the department because the department does not now, nor plan to, expend funds for human cloning.

Officials from the **Office of Administration** indicated this proposal will have no fiscal impact on their agency.

Officials from the **Missouri House of Representatives** indicated this petition will have no fiscal impact to the operations budget of their agency.

The **Department of Conservation** indicated no fiscal impact would be expected to their department as a result of this proposal.

Officials from the **Missouri Senate** indicated that the petition appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's Office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article I, Section 26, 27, 28 of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.6 million historically appropriated in even numbered fiscal years and \$100,000 appropriated in odd numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2009, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$1.35 million to publish (an average of \$270,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative will not have any significant impact on their office.

The **State Tax Commission** indicated this petition will not impact their agency.

The **State Treasurer's Office** indicated no fiscal impact on their office as related to this petition.

The **City of Jefferson** indicated that they do not anticipate any fiscal impact should this petition become law.

The **City of Kansas City** indicated this petition will have a negative fiscal impact on the city. They estimate this initiative would cause a loss of revenue for the city of approximately \$270,000 in FY 2010, approximately \$320,000 in FY 2011 and approximately \$380,000 in FY 2012. Such loss of revenue would occur because of the anticipated negative effect this legislation would have on the Stowers Institute for Medical Research, which is located in Kansas City and conducts biomedical research, and the consequent loss of earnings tax to Kansas City resulting from staff reductions at the Stowers Institute.

The **City of St. Louis** indicated that the fiscal impact of the proposed constitutional amendment will be both extremely serious and extremely negative with \$14.3 million in annual lost revenue as a conservative estimate of this negative impact on the city.

The new initiative petition filed by opponents of stem cell research purports to ban "human cloning." In addition to what is commonly thought of as "human cloning"—a practice already banned by the Missouri Constitution—the amendment will ban one of the most promising new types of stem cell research, somatic cell nuclear transfer or "SCNT," a procedure for medical research or for treating disease that involves replicating (or "cloning") a patient's own skin cell in a lab dish in order to create healthy new cells to help treat his or her disease. This process is currently permitted by the Missouri Constitution but would be banned if the proposed amendment is passed. SCNT is also sometimes referred to as "therapeutic cloning" because the cells are copied for the purpose of providing or developing a therapy for a patient's disease or injury.

The economy of the City of St. Louis is closely tied to the city's image as a cutting edge center for medical research. The City of St. Louis ranks 12th in a listing of the Top 100 Cities for grants from the National Institutes of Health, with \$441 million in grants flowing into the City in 2005 from NIH sources. This \$444 million represents 85% of all NIH support flowing into the State of Missouri. These grants support our hospitals and medical schools (Washington University School of Medicine, St. Louis University, Barnes-Jewish Hospital, and St. Louis Children's Hospital), and, assuming that 60% of the funding pays salaries, account for approximately 5,300 jobs in the city. If only half of these jobs are lost—and it is a given that many of these jobs will be lost over time if this amendment is passed—the city will lose \$1.3 million in revenue each year—\$50,000 x 5,300 x 50% x .01 city earnings tax.

As the following table shows, the city's hospitals alone account for nearly 19,000 jobs in the city, and other medical, professional and scientific and technical occupations account for an additional 15,000 jobs. Thus, 34,000 of the city's 221,000 jobs—nearly 17%—are related to medical research and treatment and related professional occupations. Many additional jobs reside in the city's colleges and universities—because colleges and universities do not report their employment data in the same manner as other places of business, detailed job and wage data for colleges and is not available from the U. S. Bureau of Labor Statistics.

A threat to ban and criminalize any type of medical research puts a black cloud over our entire state. Scientists in general will view Missouri as a regressive and unfriendly place for life sciences research, and those who make careers of cutting-edge research will not locate in Missouri. In recruiting scientists and companies, perception of the research environment is very important. Some scientists have already said that they would not come to Missouri due to threats to overturn Amendment 2 and potentially criminalize research. The initiative petition now proposed will have a drastic impact on our universities and medical schools. These schools are the engines that drive both our existing medical and research facilities and the promise of a thriving concentration of young and mature science-based companies, like those who are beginning to occupy the CORTEX campus.

The proposed amendment will not only discourage growth in the institutions and businesses directly impacted by the amendment—the deleterious impact on health care over time will also impact the quality and size of their hospitals and the city's ability to attract and retain talent and employers from any industry. Quality of life, in particular quality of available medical care, has become a top issue in the selection of company locations. St. Louis enjoys access to some of the world's premier health care facilities in Washington University, the BJC Medical Center, and Saint Louis University, all of which are teaching hospitals. The regressive negative intellectual environment created by opposition to the newest medical research and treatments will certainly erode this quality of care as it will no longer be possible to attract top students for these schools and top professionals to staff the hospitals. This proposed Constitutional Amendment banning promising forms of stem cell research would also criminalize any patient who might one day get a cure from such a procedure, thus costing these hospitals patients. Again, restricted access to the newest areas of medicine erodes the quality of life we take for granted from the great medical institutions available to us now.

RESEARCH-RELATED JOBS AND WAGES IN THE CITY OF ST. LOUIS

Source: U. S. Bureau of Labor Statistics--2006

TYPE	BUSINESSES	JOBS	TOTAL ANNUAL WAGES	% OF TOTAL BUSINESSES	% OF TOTAL JOBS	% OF TOTAL WAGE BASE
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A 10% loss of jobs in the three categories shown in the above table will cost the city more than \$10 million each year in direct loss of the 1% city earnings tax from these employees. It is also safe to say that this 10% loss will have a similar ripple effect in the thousands of other employees who serve the needs of the hospitals—laundry services, transportation, construction, wholesale food sales, and others.

In addition, passage of the proposed amendment will cost the city growth. The Battelle Institute of Cincinnati has already predicted that if current trends (absent this amendment) continue, Missouri will be eclipsed as a life science-driven economy by other states and regions. On the other hand, Battelle also predicts that if the state aggressively pursues the life sciences and makes the necessary investments over the next ten years in the research capacity and technology commercialization areas, the state would add more than 21,000 permanent jobs in life science industries, for the most part well-paid, quality employment. Conservatively assuming that one fourth of these jobs would be located in the city, given the city's predominance as a center for medical research, further assuming conservatively that each new job had a salary of \$50,000 per year, and further assuming that this salary grew by 3% each year, the loss of these new jobs to the city would cost the city an average of \$3 million per year once these jobs were fully situated. Again, it is also safe to say that this loss will have a similar ripple effect in the thousands of other employees who could be hired to serve the needs of the growing hospitals and research/development businesses—laundry services, transportation, construction, wholesale food sales, and others.

In summary, they therefore conservatively estimate that the proposed amendment will cost the City of St. Louis a minimum of \$14.3 million per year in direct general revenue—approximately 3.5% of the city's general revenue budget—and countless millions more in indirect revenue. According to officials, this is a loss that the city cannot tolerate in the face of rising costs and rising service needs.

As the Battelle Institute report stated in 2003, "If Missouri does not choose its 'fork in the road' consciously, deliberately, and with full knowledge of the consequences, it may take a fork that neither it nor its citizenry chooses. ...one fork may take Missouri to 21,000 additional well-paying jobs, \$7.2 billion in additional gross regional product, and more than \$3.9 billion in real disposable income over the next decade. The other fork may not only cost the state these jobs, but, if the state and the private sector simply continue existing trends, it may also mean further significant job and economic losses in key life science industries such as drugs and pharmaceuticals and medical devices."

A ban on SCNT will seriously harm the Missouri economy and its life science industry, in particular that industry in the City of St. Louis. The threat of such a ban has already caused harm in Kansas City, where the noted Stowers Institute has been unable to recruit

the scientists necessary to carry out the Institute's work. If the Institute expands in another state, Missouri will lose millions of dollars in economic benefit directly related to stem cell research that is not "human cloning." Human cloning is currently banned by the Missouri Constitution. Opponents of stem cell research have falsely claimed that human cloning is not banned, because they also want to forbid promising medical procedures that require the copying of cells. However, the terminology, the concepts, and the distinction used in the Missouri Constitution are the same as used by America's most respected doctors and scientists.

America's most respected doctors and scientists believe that "reproductive cloning" should be banned, but that "therapeutic cloning" should be encouraged because it holds great medical promise to lead to cures for debilitating diseases—this is also the current philosophy espoused in the Missouri Constitution. In 2002, forty Nobel Prize Winners sent a letter to members of the U.S. Senate making this important distinction. Nobel Prize-winning Scientist Paul Berg has stated that "cloning humans and 'therapeutic cloning' are fundamentally different. The cloning of a human being should be prohibited. Therapeutic cloning, on the other hand, is meant to produce stem cells, not babies." What the proposed amendment would ban is the same procedure that stem cell research opponents have tried unsuccessfully to ban in the legislature for the past five years. The passage of the "Stem Cell Amendment" in late 2006 ended the legislative battle. That battle has now moved to the voting booth with the proposal for this amendment.

In an effort to help quantify the economic impact of a new effort to undo Missouri's constitutional research and cures protections, the Coalition for Plant and Life Sciences, the Center for Emerging Technologies, and the Nidus Center for Scientific Enterprise collaborated on a survey of St. Louis science and technology-based companies and St. Louis investment firms and organizations that specialize in investments with science-based companies. This survey sought to measure the potential impact of this new proposal.

Responses were received from eleven science and technology companies. The results, summarized below, clearly demonstrate that an overwhelming majority of the leaders of these companies would find the amendment to be a severe impediment to growing their companies in Missouri, that a majority of respondents would consider moving their companies out of Missouri if the amendment passes, and that a majority of respondents believe that the amendment would be perceived as an anti-research initiative that would make Missouri an unattractive location for the high growth science-based companies that have become a major part of the city's bread and butter.

- 55% said the new amendment would make them less likely to keep their company in Missouri
- 45% said it would have no effect
- 0% said it would make them more likely to remain in Missouri
- 73% said the new amendment would make it more difficult to recruit scientists and other talent to Missouri

- 18% said it would have no effect
- 9% said it would make it easier to recruit scientists and other talent to Missouri
- 73% said the new amendment would make it more difficult to attract investors and capital to their company in Missouri
- 27% said it would have no effect
- 0% said it would make it easier to attract investors
- 73% said the new amendment would increase the pressure to relocate their company to another state
- 27% said it would have no effect
- 0% said it would decrease the pressure to relocate
- 73% said the new amendment would increase the likelihood that existing companies would avoid Missouri when considering whether to locate here
- 18% said it would help attract companies to Missouri
- 9% said it would have no effect
- 82% said the new amendment would make entrepreneurs considering starting a company in Missouri more likely to start their company in another state
- 18% said it would have no effect
- 0% said it would make entrepreneurs more likely to start their company in Missouri

The seven Missouri-based venture capital firm and investor organization respondents were unanimous in their agreement that this newly proposed amendment would harm Missouri's business climate by overturning our current protections for science and research.

- 100% said the new amendment would make it more difficult to relocate existing companies to Missouri
- 0% said it would be easier to relocate companies to Missouri
- 100% said the new amendment would make it more difficult to establish new companies in Missouri.
- 0% said it would be easier to establish companies in Missouri

It is important to note that none of the surveyed companies or investors is involved in stem cell research. That being the case, these results are evidence of the serious harm that this proposed amendment would wreak, not just on companies involved in stem cell research but on the wide variety of companies in Missouri that depend on scientific research for their survival and growth. Any threat to science of any type creates a chilling environment and negatively affects their business climate.

While it is not possible to quantify the results of this survey in terms of specific economic impact on the City of St. Louis, they believe these results clearly support the above

assertions that if the amendment passes the city will lose both existing jobs and new opportunities, and as a result will lose, at a minimum, the \$14 million per year in revenue referenced above.

In summary, the negative impact on the amount of research and the consequential economic development emerging from the scientific research that would result from the proposed amendment would impact the City of St. Louis disproportionately: the city would suffer a very substantial reduction in scientific and medical activity and the sacrifice of significant future growth potential. As the chart above shows, medical research and treatment are extremely significant parts of St. Louis's current economy; as the CORTEX initiative and the Battelle report demonstrates, these economies are also very important parts of their future. As the survey results demonstrate, businesses involved in scientific research of all types and the businesses involved in raising capital for these research businesses would seriously question their futures in Missouri. Given the negative attitudes of businesses already ensconced in Missouri to the passage of this amendment, it is also obvious that businesses outside Missouri would have equally if not more strongly negative attitudes and would not locate in the City of St. Louis or Missouri.

Officials from **Rockwood R-VI School District** indicated they do not expend money for any such services (and they doubt that other districts do either) so there would be no cost or savings to implement this initiative.

Officials from **Linn State Technical College** indicated there appears to be no fiscal impact on their organization as a result of this initiative petition.

Officials from the **Metropolitan Community College** indicated no direct fiscal impact on their organization.

The **University of Missouri** indicated this amendment would have significant, negative chilling effects on education, research, and economic development across the University of Missouri (UM) System – at all four campuses and their academic health centers.

The proposed amendment, if passed, is projected to have a profound impact on the university's ability to grow and sustain its research operations and meet and exceed its economic development goals. Critical to fulfilling the University of Missouri's mission as the state's public research university is the ability to recruit and retain top faculty researchers who will contribute to the research enterprise to the ultimate benefit of the state's economy. The perception that the state has a hostile attitude toward research, and thus to academic freedom, can have a dampening effect on recruitment and retention of faculty. This amendment would have a deleterious effect on faculty perceptions and a negative impact on the university's ability to conduct cutting edge research that will extend beyond the life sciences.

Competition nationwide to attract and retain research faculty is exceedingly high. Faculty members consider many factors when deciding whether to stay in current

positions or to accept offers from other states, including: supportive environment for research, level of state and private support, institutional reputation, and availability of state-of-the-art research facilities. A study conducted in 2006 by the National Bureau of Economic Research demonstrated the importance of attracting and retaining “research stars”. These research stars in turn attracted other research stars that would concentrate in the area - increasing the number of start-up firms and economic activity in the area. The stars and the surrounding start-up firms would generate additional patents and invention disclosures – spinning off economic development with resulting growth in jobs and transforming economic activity in the area. Thus this concentrated effort results in the “rich getting richer” by virtue of the interactive effects of new ideas generating other new ideas. The proposed amendment will seriously impact the university’s ability to attract and retain the “stars.”

In FY 2007, the University of Missouri generated \$240 million in research expenditures from funding to faculty researchers provided by federal and private sources. The funding primarily provides for the salaries of the researchers and their research staffs, supplies and equipment, and the administrative infrastructure that supports research. If one assumes that only half of the university’s research funding, or \$120 million, is in jeopardy, the direct financial loss to the university would be significant. This loss would come from top researchers leaving the university to go to institutions where there is an open and supportive climate for research and academic freedom. The economic impact on the state would be even greater because recent economic analysis* indicates that every \$1.00 in research funding brought into the state generates almost \$2.00 in economic output and every \$1.0 million in research funding supports 17 jobs thus reducing economic output by \$240 million and impacting approximately 2000 jobs.

This amendment could also have an impact on the university’s ability to support and grow commercialization of new technologies and the formation of new companies that result from the research. The university has a goal to increase revenues from patents and licenses from \$2.3 million in FY 2006 to approximately \$10 million in FY 2009. This amendment would jeopardize this growth in revenues that would be used by the university to reinvest in research and technology transfer operations and in economic development ventures that benefit the entire state such as the Discovery Ridge research park and the new life sciences incubator in Columbia and the Missouri University of Science and Technology Innovation Park in Rolla. A recent MERIC economic impact analysis on Discovery Ridge indicated that continued investment in this project would yield an economic impact of \$33 million on the state’s economy.

Finally, this amendment, if passed, could have a deleterious affect on the university’s ability to continue to attract leading medical researchers and physicians to its medical schools and hospitals in Columbia and Kansas City. This would compromise the ability of the university’s academic health centers to sustain high quality health care for citizens in the state and to continue to develop cutting edge treatments for the most life threatening medical conditions. This could result in the loss of patients to their hospitals and clinics as citizens of the state seek health care in other states. The fiscal impact of this is difficult to quantify.

*Kaufman, J., Kalaitzandonakes, N, and Johnson, T. "The Economic Role of the University of Missouri in the State." March 18, 2008.

Officials from the **University of Central Missouri** indicated no costs or savings on their organization as a result of this initiative petition.

Officials from **Harris-Stowe State University** indicated this initiative petition has no fiscal impact on their organization.

Officials from **Missouri State University** indicated their organization does not spend any funds in this area, so this petition should have no fiscal impact on their university.

Officials from **Missouri Southern State University** indicated there would be no fiscal impact to their organization for this initiative petition.

Officials from **Missouri Western State University** indicated there would be no fiscal impact.

Officials from **Northwest Missouri State University** determined this measure would have no estimated cost or savings impact on their organization.

Mr. Brad Ketcher of the Ketcher Law Firm, LLC provided fiscal impact information in opposition to the proposal which is summarized as follows:

STATE IMPACT

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
GSP Reduction	\$280m	\$403m	\$386m
Loss of Stowers Phase II State Tax Revenue	\$10.6m	\$15.3m	\$14.7m
Lose of Stowers Phase II (3.8% of GSP)			
GSP Reduction	\$1.7b	\$2.1b	\$2.5b
10% Chilling Effect on R&D State Tax Revenue	\$64.6m	\$79.8m	\$95m
10% Chilling Effect of R&D (3.8% of GSP)			

LOCAL GOVT IMPACT

	<u>Annual</u>
KC Loss of Stowers Phase II Personal Income	\$339k
KC Loss of Stowers Phase II Earnings Tax	\$113k
KC Loss of Personal Income 10% Chilling Effect on R&D	\$154m
St. Louis Loss of Personal Income	\$331m

10% Chilling Effect on R&D
Boone Co. Loss of Personal Income

\$20m

The State Auditor's Office did not receive a response from the **Department of Agriculture**, the **Department of Elementary and Secondary Education**, the **Department of Labor and Industrial Relations**, the **Governor's Office**, the **Office of State Courts Administrator**, the **Department of Transportation**, **Cole County**, **Greene County**, **Jackson County**, **St. Louis County**, the **City of Columbia**, **Cape Girardeau 63 School District**, **Hannibal School District #60**, **St. Louis Community College**, **Lincoln University**, **Southeast Missouri State University**, **Truman State University**, the **Missouri Technology Corporation**, and the **Missouri Life Sciences Research Board**.

Fiscal Note Summary

This proposal could have a significant negative fiscal impact on state and local governmental entities. Federal grants to state governmental entities for research programs may be in jeopardy. The total costs to state and local governmental entities are unknown.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (09-34)**

Subject

Initiative petition from Todd Jones regarding a proposed amendment to Article III of the Missouri Constitution. (Received July 7, 2009)

Date

July 27, 2009

Description

This proposal would amend Article III, Section 38 of the Missouri Constitution.

The amendment is to be voted on in November, 2010.

Public comments and other input

The State Auditor's Office requested input from the **Attorney General's Office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's Office**, the **Office of Administration**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Office of State Courts Administrator**, the **Department of Transportation**, the **Missouri Senate**, the **Secretary of State's Office**, the **Office of the State Public Defender**, the **State Tax Commission**, the **State Treasurer's Office**, **Cole County**, **Greene County**, **Jackson County**, **St. Louis County**, the **City of Columbia**, the **City of Jefferson**, the **City of Kansas City**, the **City of St. Louis**, **Cape Girardeau 63 School District**, **Hannibal School District #60**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community Colleges**, the **University of Missouri**, **St. Louis Community College**, the **University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, **Truman State University**, the **Missouri Technology Corporation**, and the **Missouri Life Sciences Research Board**.

Brad Ketcher of the Ketcher Law Firm, LLC provided information to the State Auditor's Office.

Assumptions

Officials from the **Attorney General's Office** assumed that implementing the proposed initiative petition would not directly affect their office. However, they assume that because this proposal has the potential to be the subject of state litigation, potential costs are unknown.

Officials from the **Department of Economic Development** indicated this proposal would have a significant negative impact on General Revenue, federal funds and local funds. The department anticipates a significant negative impact on public and private research institutions as well as on economic development efforts of local and regional government. In addition, they indicate that the passage of this constitutional amendment could have significant impact on small technology business growth and development.

The department assumes that placing the issue on the ballot by initiative petition will have no impact on General Revenue. However, they indicate that passage of the ballot initiative could have impact on the general revenue of this state. While the department did not make any fiscal projections, they do anticipate that this could have a significant economic impact and therefore impact general revenue.

This bill should have no known direct administrative or fiscal impact on the department. However, they do indicate there is a possibility that impact on the state general revenue could impact their agency to an unknown extent. If passed, this proposal could impact the department's mission to attract and retain business as well as grow business within the state.

The department also indicated that passage of the constitutional amendment could have significant economic impact on future research, entrepreneurship, and business development within Missouri. The department did not conduct any specific fiscal or economic projections on the impact of the constitutional amendment. However, they do anticipate that future projects and opportunities could be put at risk by passage of this amendment.

The **Department of Higher Education** indicated this initiative petition would not have a direct, foreseeable fiscal impact on their department. It might, however, have some impact on the public higher education institutions that conduct research with which the department works.

The **Department of Health and Senior Services** indicated no impact for their department.

The **Department of Insurance, Financial Institutions and Professional Registration** indicated this initiative will have no cost or savings to the department.

The **Department of Mental Health** indicated they do not participate in stem cell research, therapies or cures. There should be no fiscal impact resulting from the enactment of this amendment.

The **Department of Natural Resources** does not anticipate a direct fiscal impact from this initiative petition.

The **Department of Corrections** indicated they cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the department due to the provisions of this legislation, the department will incur a corresponding increase in direct offender cost either through incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

In summary, supervision by the department through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the department.

The **Department of Revenue** indicated the petition will not have a fiscal impact on the department.

The **Department of Public Safety** assumed that this initiative petition would have no fiscal impact to the department.

The **Department of Social Services** indicated there is no fiscal impact to their department.

Officials from the **Governor's Office** indicated there should be no added costs to their office if this amendment is approved by the voters.

The **Office of Administration** indicated there should be no added cost to their office if this constitutional amendment is passed by the voters. The amendment modifies the Missouri Stem Cell Research and Cures Initiative passed by the voters in November 2006. Currently, the provisions prohibit state and local governments from preventing or discouraging lawful research, therapies and cures. If the proposed amendment would pass, the prohibition of state government from preventing or discouraging lawful research, therapies and cures is removed.

Officials from the **Missouri House of Representatives** indicated this petition will have no fiscal impact to the budget of their agency.

The **Department of Conservation** indicated no adverse fiscal impact is expected to their department as a result of this proposal.

The **Office of State Courts Administrator** indicated the proposed initiative should not have a fiscal impact on the judiciary.

Officials from the **Missouri Senate** indicated that the initiative appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's Office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article I, Section 26, 27, 28 of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.6 million historically appropriated in even numbered fiscal years and \$100,000 appropriated in odd numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2009, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$1.35 million to publish (an average of \$270,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative will not have any impact on their office.

The **State Tax Commission** indicated this petition will not impact their agency.

Officials from the **State Treasurer's Office** indicated this initiative petition does not have a fiscal impact on their office.

Officials from **St. Louis County** indicated this amendment pertains to appropriations of funds for stem cell research. Because St. Louis County has not been involved in this issue, the initiative, if adopted as law, would appear to have no impact on the county.

The **City of Jefferson** indicated that they do not anticipate any fiscal impact should this petition become law.

The **City of St. Louis** indicated that the fiscal impact of the proposed constitutional amendment will be both extremely serious and extremely negative with \$14.3 million in annual lost revenue as a conservative estimate of this negative impact on the city.

The new initiative petition filed by opponents of stem cell research purports to ban “human cloning.” In addition to what is commonly thought of as “human cloning”—a practice already banned by the Missouri Constitution—the amendment will ban one of the most promising new types of stem cell research, somatic cell nuclear transfer or “SCNT,” a procedure for medical research or for treating disease that involves replicating (or “cloning”) a patient’s own skin cell in a lab dish in order to create healthy new cells to help treat his or her disease. This process is currently permitted by the Missouri Constitution but would be banned if the proposed amendment is passed. SCNT is also sometimes referred to as “therapeutic cloning” because the cells are copied for the purpose of providing or developing a therapy for a patient’s disease or injury.

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The proposed amendment will not only discourage growth in the institutions and businesses directly impacted by the amendment—the deleterious impact on health care over time will also impact the quality and size of our hospitals and our City’s ability to attract and retain talent and employers from any industry. Quality of life, in particular quality of available medical care, has become a top issue in the selection of company locations. St. Louis enjoys access to some of the world’s premier health care facilities in Washington University, the BJC Medical Center, and Saint Louis University, all of which are teaching hospitals. The regressive negative intellectual environment created by opposition to the newest medical research and treatments will certainly erode this quality of care as it will no longer be possible to attract top students for these schools and top professionals to staff the hospitals. This proposed Constitutional Amendment banning promising forms of stem cell research would also criminalize any patient who might one day get a cure from such a procedure, thus costing these hospitals patients. Again, restricted access to the newest areas of medicine erodes the quality of life we take for granted from the great medical institutions available to us now.

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City of St. Louis Totals:	8,000	221,000	10,442,455,000	100.00%	100.00%	100.00%

A 10% loss of jobs in the three categories shown in the above table will cost the City more than \$10 million each year in direct loss of the 1% City earnings tax from these employees. It is also safe to say that this 10% loss will have a similar ripple effect in the thousands of other employees who serve the needs of the hospitals—laundry services, transportation, construction, wholesale food sales, and others.

In addition, passage of the proposed amendment will cost the City growth. The Battelle Institute of Cincinnati has already predicted that if current trends (absent this amendment) continue, Missouri will be eclipsed as a life science-driven economy by other states and regions. On the other hand, Battelle also predicts that if the state aggressively pursues the life sciences and makes the necessary investments over the next ten years in the research capacity and technology commercialization areas, the state would add more than 21,000 permanent jobs in life science industries, for the most part well-paid, quality employment. Conservatively assuming that one fourth of these jobs would be located in the City, given the City’s predominance as a center for medical research, further assuming conservatively that each new job had a salary of \$50,000 per year, and further assuming that this salary grew by 3% each year, the loss of these new jobs to the City

would cost the City an average of \$3 million per year once these jobs were fully situated. Again, it is also safe to say that this loss will have a similar ripple effect in the thousands of other employees who could be hired to serve the needs of the growing hospitals and research/development businesses—laundry services, transportation, construction, wholesale food sales, and others.

In summary, we therefore conservatively estimate that the proposed amendment will cost the City of St. Louis a minimum of \$14.3 million per year in direct general revenue—approximately 3.5% of the City's general revenue budget—and countless millions more in indirect revenue. This is a loss that the City cannot tolerate in the face of rising costs and rising service needs.

As the Battelle Institute report stated in 2003, "If Missouri does not choose its 'fork in the road' consciously, deliberately, and with full knowledge of the consequences, it may take a fork that neither it nor its citizenry chooses. ...one fork may take Missouri to 21,000 additional well-paying jobs, \$7.2 billion in additional gross regional product, and more than \$3.9 billion in real disposable income over the next decade. The other fork may not only cost the state these jobs, but, if the state and the private sector simply continue existing trends, it may also mean further significant job and economic losses in key life science industries such as drugs and pharmaceuticals and medical devices."

A ban on SCNT will seriously harm the Missouri economy and its life science industry, in particular that industry in the City of St. Louis. The threat of such a ban has already caused harm in Kansas City, where the noted Stowers Institute has been unable to recruit the scientists necessary to carry out the Institute's work. If the Institute expands in another state, Missouri will lose millions of dollars in economic benefit directly related to stem cell research that is not "human cloning." Human cloning is currently banned by the Missouri Constitution. Opponents of stem cell research have falsely claimed that human cloning is not banned, because they also want to forbid promising medical procedures that require the copying of cells. However, the terminology, the concepts, and the distinction used in the Missouri Constitution are the same as used by America's most respected doctors and scientists.

America's most respected doctors and scientists believe that "reproductive cloning" should be banned, but that "therapeutic cloning" should be encouraged because it holds great medical promise to lead to cures for debilitating diseases—this is also the current philosophy espoused in the Missouri Constitution. In 2002, forty Nobel Prize Winners sent a letter to members of the U.S. Senate making this important distinction. Nobel Prize-winning Scientist Paul Berg has stated that "cloning humans and 'therapeutic cloning' are fundamentally different. The cloning of a human being should be prohibited. Therapeutic cloning, on the other hand, is meant to produce stem cells, not babies." What the proposed amendment would ban is the same procedure that stem cell research opponents have tried unsuccessfully to ban in the legislature for the past five years. The passage of the "Stem Cell Amendment" in late 2006 ended the legislative battle. That battle has now moved to the voting booth with the proposal for this amendment.

In an effort to help quantify the economic impact of a new effort to undo Missouri's constitutional research and cures protections, the Coalition for Plant and Life Sciences, the Center for Emerging Technologies, and the Nidus Center for Scientific Enterprise collaborated on a survey of St. Louis science and technology-based companies and St. Louis investment firms and organizations that specialize in investments with science-based companies. This survey sought to measure the potential impact of this new proposal.

Responses were received from eleven science and technology companies. The results, summarized below, clearly demonstrate that an overwhelming majority of the leaders of these companies would find the amendment to be a severe impediment to growing their companies in Missouri, that a majority of respondents would consider moving their companies out of Missouri if the amendment passes, and that a majority of respondents believe that the amendment would be perceived as an anti-research initiative that would make Missouri an unattractive location for the high growth science-based companies that have become a major part of the City's bread and butter.

- 55% said the new amendment would make them less likely to keep their company in Missouri
- 45% said it would have no effect
- 0% said it would make them more likely to remain in Missouri

- 73% said the new amendment would make it more difficult to recruit scientists and other talent to Missouri
- 18% said it would have no effect
- 9% said it would make it easier to recruit scientists and other talent to Missouri

- 73% said the new amendment would make it more difficult to attract investors and capital to their company in Missouri
- 27% said it would have no effect
- 0% said it would make it easier to attract investors

- 73% said the new amendment would increase the pressure to relocate their company to another state
- 27% said it would have no effect
- 0% said it would decrease the pressure to relocate

- 73% said the new amendment would increase the likelihood that existing companies would avoid Missouri when considering whether to locate here
- 18% said it would help attract companies to Missouri
- 9% said it would have no effect

- 82% said the new amendment would make entrepreneurs considering starting a company in Missouri more likely to start their company in another state
- 18% said it would have no effect

- 0% said it would make entrepreneurs more likely to start their company in Missouri

The seven Missouri-based venture capital firm and investor organization respondents were unanimous in their agreement that this newly proposed amendment would harm Missouri's business climate by overturning our current protections for science and research.

- 100% said the new amendment would make it more difficult to relocate existing companies to Missouri
- 0% said it would be easier to relocate companies to Missouri
- 100% said the new amendment would make it more difficult to establish new companies in Missouri.
- 0% said it would be easier to establish companies in Missouri

It is important to note that none of the surveyed companies or investors is involved in stem cell research. That being the case, these results are evidence of the serious harm that this proposed amendment would wreak, not just on companies involved in stem cell research but on the wide variety of companies in Missouri that depend on scientific research for their survival and growth. Any threat to science of any type creates a chilling environment and negatively affects their business climate.

While it is not possible to quantify the results of this survey in terms of specific economic impact on the City of St. Louis, we believe these results clearly support the above assertions that if the amendment passes the City will lose both existing jobs and new opportunities, and as a result will lose, at a minimum, the \$14 million per year in revenue referenced above.

In summary, the negative impact on the amount of research and the consequential economic development emerging from the scientific research that would result from the proposed amendment would impact the City of St. Louis disproportionately: the City would suffer a very substantial reduction in scientific and medical activity and the sacrifice of significant future growth potential. As the chart above shows, medical research and treatment are extremely significant parts of St. Louis's current economy; as the CORTEX initiative and the Battelle report demonstrate, these economies are also very important parts of our future. As the survey results demonstrate, businesses involved in scientific research of all types and the businesses involved in raising capital for these research businesses would seriously question their futures in Missouri. Given the negative attitudes of businesses already ensconced in Missouri to the passage of this amendment, it is also obvious that businesses outside Missouri would have equally if not more strongly negative attitudes and would not locate in the City of St. Louis or Missouri.

Officials from the **Rockwood R-VI School District** indicated they do not anticipate any cost or savings to their district as a result of this measure.

Officials from **Linn State Technical College** indicated there appears to be no fiscal impact on their organization as a result of this initiative petition.

Metropolitan Community College indicated this petition would have no direct fiscal impact on their organization.

The **University of Missouri** indicated this amendment would alter the Stem Cell Amendment (Amendment 2 from 2006) to allow the legislature to punish universities and hospitals for conducting stem cell research by withholding or reducing funding for other programs and have a significant, negative chilling effect on education, research, and economic development across the University of Missouri (UM) System – at all four campuses and their academic health centers.

The proposed amendment, if passed, is projected to have a profound impact on the University's ability to grow and sustain its research operations and meet and exceed its economic development goals. Critical to fulfilling the University of Missouri's mission as the state's public research university is the ability to recruit and retain top faculty researchers who will contribute to the research enterprise to the ultimate benefit of the state's economy. The perception that the state has a hostile attitude toward research, and thus to academic freedom, can have a dampening effect on recruitment and retention of faculty. This amendment could have a deleterious effect on faculty perceptions and a negative impact on the University's ability to conduct cutting edge research that will extend beyond the life sciences.

Competition nationwide to attract and retain research faculty is exceedingly high. Faculty members consider many factors when deciding whether to stay in current positions or to accept offers from other states, including: supportive environment for research, level of state and private support, institutional reputation, and availability of state-of-the-art research facilities. A study conducted in 2006 by the National Bureau of Economic Research demonstrated the importance of attracting and retaining "research stars". These research stars in turn attracted other research stars that would concentrate in the area - increasing the number of start-up firms and economic activity in the area. The stars and the surrounding start-up firms would generate additional patents and invention disclosures – spinning off economic development with resulting growth in jobs and transforming economic activity in the area. Thus this concentrated effort results in the "rich getting richer" by virtue of the interactive effects of new ideas generating other new ideas. The proposed amendment will seriously impact the University's ability to attract and retain the "stars."

In FY 2007, the University of Missouri generated \$240 million in research expenditures from funding to faculty researchers provided by federal and private sources. The funding primarily provides for the salaries of the researchers and their research staffs, supplies and equipment, and the administrative infrastructure that supports research. Another key element of research funding is providing support for extramural training programs for graduate students and postdoctoral fellows. In a sense, these funds are used to build

future scientists. If one assumes that only half of the University's research funding, or \$120 million, is in jeopardy, the direct financial loss to the University would be significant. This loss would come from top researchers leaving the University to go to institutions where there is an open and supportive climate for research and academic freedom. The economic impact on the state would be even greater because recent economic analysis* indicates that every \$1.00 in research funding brought into the state generates almost \$2.00 in economic output and every \$1.0 million in research funding supports 17 jobs thus reducing economic output by \$240 million and impacting approximately 2000 jobs.

This amendment could also have an impact on the University's ability to support and grow commercialization of new technologies and the formation of new companies that result from the research. The University has a goal to increase revenues from patents and licenses from \$2.3 million in FY 2006 to \$10 million. This amendment would jeopardize this growth in revenues that would be used by the University to reinvest in research and technology transfer operations and in economic development ventures that benefit the entire state such as the Discovery Ridge research park and the new life sciences incubator in Columbia and the Missouri University of Science and Technology Innovation Park in Rolla. A recent MERIC economic impact analysis on Discovery Ridge indicated that continued investment in this project would yield an economic impact of \$33 billion on the state's economy.

Finally, this amendment, if passed, could have a deleterious affect on the University's ability to continue to attract leading medical researchers and physicians to its medical schools and hospitals in Columbia and Kansas City. This would compromise the ability of the University's academic health centers to sustain high quality health care for citizens in the state and to continue to develop cutting edge treatments for the most life threatening medical conditions. This could result in the loss of patients to our hospitals and clinics as citizens of the state seek health care in other states. The fiscal impact of this is difficult to quantify.

*Kaufman, J., Kalaitzandonakes, N, and Johnson, T. "The Economic Role of the University of Missouri in the State.
March 18, 2008.

Missouri Southern State University indicated there would be no fiscal impact to their organization.

Missouri Western State University indicated no fiscal impact on their organization.

Officials from **Northwest Missouri State University** determined that this measure would have no estimated cost or savings impact on their organization.

Mr. Brad Ketcher of the Ketcher Law Firm, LLC provided fiscal impact information in opposition to the proposal which is summarized as follows:

STATE IMPACT

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
GSP Reduction	\$280m	\$403m	\$386m
Loss of Stowers Phase II			
State Tax Revenue	\$10.6m	\$15.3m	\$14.7m
Loss of Stowers Phase II			
(3.8% of GSP)			
GSP Reduction	\$1.7b	\$2.1b	\$2.5b
10% Chilling Effect on R&D			
State Tax Revenue	\$64.6m	\$79.8m	\$95m
10% Chilling Effect of R&D			
(3.8% of GSP)			

LOCAL GOVT IMPACT

	<u>Annual</u>
KC Loss of Stowers Phase II	\$339k
Personal Income	
KC Loss of Stowers Phase II	\$113k
Earnings Tax	
KC Loss of Personal Income	\$154m
10% Chilling Effect on R&D	
St. Louis Loss of Personal Income	\$331m
10% Chilling Effect on R&D	
Boone Co. Loss of Personal Income	\$20m

The State Auditor's Office did not receive a response from the **Department of Agriculture**, the **Department of Elementary and Secondary Education**, the **Department of Labor and Industrial Relations**, the **Department of Transportation**, **Cole County**, **Greene County**, **Jackson County**, the **City of Columbia**, the **City of Kansas City**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **St. Louis Community College**, the **University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Southeast Missouri State University**, **Truman State University**, the **Missouri Technology Corporation**, and the **Missouri Life Sciences Research Board**.

Fiscal Note Summary

This proposal could have a significant negative fiscal impact on state and local governmental entities if state funds for certain research activities are eliminated, reduced, denied, or withheld. However, the total costs to state and local governmental entities are unknown.

The State Auditor's Office did not receive a response from the **Department of Agriculture**, the **Department of Elementary and Secondary Education**, the **Department of Natural Resources**, the **Department of Public Safety**, the **Missouri House of Representatives**, the **Department of Transportation**, the **Missouri Senate**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Joplin**, the **City of Kirksville**, the **City of Kirkwood**, the **City of Mexico**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of West Plains**, **Cape Girardeau 63 School District**, **St. Louis Community College**, and the **Missouri Life Sciences Research Board**.

Fiscal Note Summary

This proposal could have a significant negative fiscal impact on state and local governmental entities by prohibiting certain research activities currently occurring in the state. The total costs to state and local governmental entities are unknown.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-13)**

Subject

Initiative petition from Jewell Patek regarding a proposed constitutional amendment to Article X. (Received February 17, 2012)

Date

March 7, 2012

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Kirkwood**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Bradley Ketcher provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated they assume this initiative will have no cost on the agency. The initiative appears to give local voters the right to set and control local beverage taxes which they have not previously had the authority to control. Since all existing local beverage taxes in place on the effective date of this initiative shall remain in effect, there appears to be a potential at the local level for increased revenue. Any impact would depend upon the actions of local voters and cannot be estimated.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposed constitutional amendment does not threaten current revenues; nor specifically assign additional responsibilities to the their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated there will be no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition is no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have a fiscal impact on their department.

Officials from the **Department of Social Services** indicated the adoption of local beverage taxes will not create any additional revenue for their department because the tax is collected and the use of the proceeds is controlled at the local level.

Officials from the **Governor's office** indicated there should be no added costs or savings to their office if approved by the voters.

Officials from the **Missouri House of Representatives** indicated there would be no fiscal impact to their office.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal has no impact on their office. This proposal has no direct impact on total state revenues, but may have an unknown indirect impact if statewide beverage sales are reduced as a result of local actions.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there will be no fiscal impact to their office.

Officials from **St. Louis County** indicated:

Because this initiative petition only allows county governments to levy a tax on beverages but does not specify any rate of taxation or mandate any action, there would be no impact on St. Louis County revenues in 2012, 2013 or 2014.

No savings are expected as a result of is proposal.

There would be no additional costs incurred as a result of this proposed change.

No losses are anticipated if Initiative Petition 12-13 were to pass.

Officials from the **City of Columbia** indicated there is no fiscal impact from this initiative petition.

Officials from the **City of Jefferson** indicated the city expects no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated there is no fiscal impact to the City of Kansas City if these petitions are adopted as law.

First, the petitions say the laws apply to counties, but then refer to cities and counties. If the intent is to exclude cities there is, obviously, no impact. If the limitation to counties is an error the next analysis is required.

Second, the imposition of local taxes are made discretionary with voters of the city. Although single issue elections cost about \$500,000, presumably any tax proposed would raise more than \$500,000.

Officials from the **City of St. Joseph** indicated:

The only difference between this initiative and 12-14 is that this covers ALL beverages. However, our response is the same. It might impact more businesses since it would encompass merchants not selling alcohol.

Given the language that it covers "taxes" on the "selling of beverages or business of selling beverages" this could impact city revenues. Depending on how "tax" is defined (and it isn't in the bill as presented) the city could be required to go to a vote of the people if it wished to increase its current Alcohol Servers License and Health permit costs. [Liquor Licenses are capped by state statute and our Business Licenses would require a vote anyway.]

An actual loss could occur if there was a petition to reduce any of the licenses (Business License, Alcohol Servers License, Liquor License, Health Permit required for Restaurants/Bars) the City current has. Together they generate approximately \$185,000 a year for the General Fund.

The city is also in the process of establishing a Food Handlers' permit which, if not approved by voters, would eliminate potential revenues of \$10,000.

Officials from the **City of St. Louis** indicated:

The proposed proposition would allow for local elections to "set and control local beverage taxes." This would provide a potential new source of revenue to the city. The proposition does not specify a rate and thus the potential impact cannot be quantified.

Officials from the **City of Wentzville** indicated a possible loss of \$30,000 to the general fund annually.

Officials from **Hannibal 60 School District** indicated they believe initiative petition 12-13 has the potential of a negative affect on the taxes to the district.

Officials from **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, there appears to be no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated this would have no fiscal impact on their college.

Bradley Ketcher provided the following information for this initiative petition.

This initiative is hopelessly ambiguous and should be given a fiscal summary of "unknown cost to state and local governmental entities with the potential for substantial litigation costs." The reason for the ambiguity and related costs is as follows: this petition declares in Section 2 that it applies to "counties." And yet, in Sections 3(1), 3(2) & 5, it states that it applies to "cities" and "counties." This ambiguity will result in real, but unknown costs and the likelihood of costly litigation.

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County, the City of Cape Girardeau, the City of Joplin, the City of Kirksville, the City of Kirkwood, the City of Mexico, the City of Raymore, the City of Springfield, the City of Union, the City of West Plains, Cape Girardeau 63 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

The proposal has no direct fiscal impact (change in costs, savings, or revenues) for state and local governmental entities. Indirectly, the fiscal impact to state and local governmental entities resulting from any measures submitted to voters as allowed by this proposal is unknown.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-14)**

Subject

Initiative petition from Jewell Patek regarding a proposed constitutional amendment to Article X. (Received February 17, 2012)

Date

March 7, 2012

Description

This proposal would amend Article X of the Missouri Constitution.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Kirkwood**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Bradley Ketcher provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact.

Officials from the **Department of Economic Development** indicated they anticipate no fiscal impact as a result of the proposed legislation.

Officials from the **Department of Elementary and Secondary Education** indicated they assume this initiative will have no cost on the agency. The initiative appears to give local voters the right to set and control local alcoholic beverage taxes which they have not previously had the authority to control. Since all existing local alcoholic beverage taxes in place on the effective date of this initiative shall remain in effect, there appears to be a potential at the local level for increased revenue. Any impact would depend upon the actions of local voters and cannot be estimated.

Officials from the **Department of Higher Education** indicated the proposal contained in this initiative petition would have no direct, foreseeable fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated this petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposed constitutional amendment does not threaten current revenues; nor specifically assign additional responsibilities to the their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this initiative petition.

Officials from the **Department of Corrections** indicated there will be no impact for their department.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition is no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have a fiscal impact on their department.

Officials from the **Department of Social Services** indicated the adoption of local alcoholic beverage taxes will not create any additional revenue for their department because the tax is collected and the use of the proceeds is controlled at the local level.

Officials from the **Governor's office** indicated there should be no added costs or savings to their office if approved by the voters.

Officials from the **Missouri House of Representatives** indicated there would be no fiscal impact to their office.

Officials from **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated this proposal has no impact on their office. This proposal has no direct impact on total state revenues, but may have an unknown indirect impact if statewide alcoholic beverage sales are reduced as a result of local actions.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated this initiative appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated there will be no fiscal impact to their office.

Officials from **St. Louis County** indicated:

Because this initiative petition only allows county governments to levy a tax on alcoholic beverages but does not specify any rate of taxation or mandate any action, there would be no impact on St. Louis County revenues in 2012, 2013 or 2014.

No savings are expected as a result of is proposal.

There would be no additional costs incurred as a result of this proposed change.

No losses are anticipated if Initiative Petition 12-14 were to pass.

Officials from the **City of Columbia** indicated there is no fiscal impact from this initiative petition.

Officials from the **City of Jefferson** indicated the city expects no fiscal impact should this petition become law.

Officials from the **City of Kansas City** indicated there is no fiscal impact to the City of Kansas City if these petitions are adopted as law.

First, the petitions say the laws apply to counties, but then refer to cities and counties. If the intent is to exclude cities there is, obviously, no impact. If the limitation to counties is an error the next analysis is required.

Second, the imposition of local taxes are made discretionary with voters of the city. Although single issue elections cost about \$500,000, presumably any tax proposed would raise more than \$500,000.

Officials from the **City of St. Joseph** indicated:

Perhaps they didn't catch this in previous (copious) versions of this bill, but given the language that it covers "taxes" on the "selling of alcohol or business of selling alcohol" this could impact city revenues. Depending on how "tax" is defined (and it isn't in the bill as presented) the city could be required to go to a vote of the people if it wished to increase its current Alcohol Servers License and Health permit costs. [Liquor Licenses are capped by state statute and our Business Licenses would require a vote anyway.]

An actual loss could occur if there was a petition to reduce any of the licenses (Business License, Alcohol Servers License, Liquor License, Health Permit required for Restaurants/Bars) the City current has. Together they generate approximately \$185,000 a year for the General Fund.

The City is also in the process of establishing a Food Handlers' permit which, if not approved by voters, would eliminate potential revenues of \$10,000.

Officials from the **City of St. Louis** indicated:

The proposed proposition would allow for local elections to "set and control local beverage taxes." This would provide a potential new source of revenue to the city. The proposition does not specify a rate and thus the potential impact cannot be quantified.

Officials from the **City of Wentzville** indicated a possible loss of \$30,000 to the general fund annually.

Officials from **Hannibal 60 School District** indicated they believe initiative petition 12-14 has the potential of the loss of tax dollars that currently aid the district. The dollar amount of the impact cannot be known at this time.

Officials from **Rockwood R-VI School District** indicated as it is written, the district sees no estimated cost or savings from this measure.

Officials from **Linn State Technical College** indicated that based on the information presented, there appears to be no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated this would have no fiscal impact on their college.

Bradley Ketcher provided the following information for this initiative petition.

This initiative is hopelessly ambiguous and should be given a fiscal summary of "unknown cost to state and local governmental entities with the potential for substantial litigation costs." The reason for the ambiguity and related costs is as follows: this petition declares in Section 2 that it applies to "counties." And yet, in Sections 3(1), 3(2) & 5, it states that it applies to "cities" and "counties." This ambiguity will result in real, but unknown costs and the likelihood of costly litigation.

The State Auditor's office did not receive a response from the **Department of Public Safety, the Department of Transportation, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, Taney County, the City of Cape Girardeau, the City of Joplin, the City of Kirksville, the City of Kirkwood, the City of Mexico, the City of Raymore, the City of Springfield, the City of Union, the City of West Plains, Cape Girardeau 63 School District, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

The proposal has no direct fiscal impact (change in costs, savings, or revenues) for state and local governmental entities. Indirectly, the fiscal impact to state and local governmental entities resulting from any measures submitted to voters as allowed by this proposal is unknown.

MISSOURI STATE AUDITOR'S OFFICE FISCAL NOTE (12-15)

Subject

Truly Agreed To and Finally Passed Senate Joint Resolution No. 51. (Received May 30, 2012)

Date

June 18, 2012

Description

This proposal would amend Article V of the Constitution of Missouri.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, and the **State Treasurer's office**.

Assumptions

Officials from the **Department of Economic Development** indicated no fiscal impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated this legislation does not impact their department or local schools.

Officials from the **Department of Health and Senior Services** indicated this initiative petition is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal places no direct requirements on their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact per each fiscal year.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no added costs to their office as a result of this measure.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this resolution is passed by the voters.

Officials from the **Missouri Senate** indicated this legislation appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated:

Unless a special election is called for the purpose, Joint Resolutions are submitted to a vote of the people at the next general election. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people and Article XII section 2(b) authorizes the governor to call a special election to submit constitutional amendments to a vote of the people.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd

numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, the Secretary of State's office reserves the right to request funding to meet the cost of the publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of this appropriation.

Officials from the **Office of the State Public Defender** indicated this proposal will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

The State Auditor's office did not receive a response from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Higher Education**, the **Department of Public Safety**, the **Department of Social Services**, the **Missouri House of Representatives**, the **Department of Transportation**, and the **Office of State Courts Administrator**.

Fiscal Note Summary

There are no estimated costs or savings expected if this proposal is approved by voters.

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (12-16)**

Subject

Truly Agreed To and Finally Passed Senate Bill No. 464. (Received May 30, 2012)

Date

June 18, 2012

Description

This proposal would amend Chapter 376 of the Revised Statutes of Missouri.

The amendment is to be voted on in November, 2012.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Kirkwood**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Rockwood R-VI School District**, **Linn State Technical College**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Assumptions

Officials from the **Department of Economic Development** indicated no impact for their department.

Officials from the **Department of Elementary and Secondary Education** indicated this legislation does not impact their department or local schools.

Officials from the **Department of Health and Senior Services** indicated this legislation is a no impact note for their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this bill, if passed, would prohibit cooperation and communication without specific statutory authority between Missouri and the federal government with regard to a federally-facilitated exchange. They said this bill will have an unknown fiscal impact to their department since the issues that could result from an inability to communicate with the federal government cannot be quantified.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact per each fiscal year.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department.

Officials from the **Department of Revenue** indicated this initiative petition will have no fiscal impact on their department.

Officials from the **Department of Social Services** indicated according to the MO HealthNet Division, this legislation does not revise Chapter 208, RSMo; therefore it does not affect MO HealthNet eligibility or benefits. There is no fiscal impact to their department.

Officials from the **Governor's office** indicated there should be no added costs to their office as a result of this measure.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated there should be no added costs or savings to their office if this proposal is passed by the voters.

Officials from the **Missouri Senate** indicated this legislation appears to have no fiscal impact as it relates to their agency.

Officials from the **Secretary of State's office** indicated each year, a number of bills may be considered by the General Assembly that would refer to a vote of the people the issue

in the legislation. Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2011, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.02 million to publish (an average of \$170,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. However, because these requirements are mandatory, the Secretary of State's office reserves the right to request funding to meet the cost of our publishing requirements if the Governor and the General Assembly change the amount or eliminate the estimated nature of our appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated they do not expect any fiscal impact if this bill becomes law.

Officials from the **City of St. Louis** indicated:

The health exchanges required by the Federal Affordable Care Act will serve an important purpose for people who are middle- or low-income. Exchanges will be the place where people can purchase insurance with the tax credits that the Affordable Care Act provides to make coverage affordable for all Americans. In addition, when individuals who are eligible for Medicaid or other public coverage programs enter the exchange, they will quickly and smoothly be directed to the correct program. States can make sure that exchanges function as intended: as marketplaces for high-value coverage that are user-friendly, transparent, and stable.

The value of establishing a state-based Exchange includes:

- Maintaining regulatory authority over a large share of the commercial health insurance market;
- Mitigating risk selection that may result from different rating and underwriting rules for insurance policies sold inside and outside the Exchange;
- Enabling greater coordination of benefits and eligibility rules across health coverage programs (e.g., Medicaid, CHIP and policies sold through the Exchange); and
- Promoting state health reform strategies and priorities through the Exchange.

If a state does not establish Exchanges or implement the new insurance rules according to the standards in the new law (and subject to further interpretation by federal regulations), then the federal government will step in and perform those functions.

Starting in 2014, all families with income up to 133% of the federal poverty level (about \$29,000 for a family of four in 2009) will be eligible for Medicaid, with the vast majority of the additional cost paid for by the federal government. The expansion in eligibility will be a required element of every state Medicaid program. States are not required to have Medicaid programs, though all states currently do, in large part, because the federal government pays the majority of the costs.

A key issue for states will be the level of funding available from the federal government to support states in the planning and establishment of the Exchange. An initial allotment of funds – up to \$1 million for each state and the District of Columbia – to assist states with this effort was made available by federal HHS in September 2010. The federal government has indicated that additional funding in the form of implementation grants will become available in spring 2011. Unlike the initial planning grants, the implementation grants will be based on the specific needs of each state.

Officials from the **City of Wentzville** indicated they are not aware of direct costs or savings related to this senate bill.

Officials from **Hannibal 60 School District** indicated they do not have sufficient information at hand to know if this senate bill would have a positive or negative impact on it financially.

Officials from **Metropolitan Community College** indicated this would have an unknown fiscal impact on their college.

The State Auditor's office did not receive a response from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Higher Education**, the **Department of Public Safety**, the **Missouri House of Representatives**, the **Department of Transportation**, the **Office of State Courts Administrator**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St.**

Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Joplin, the City of Kansas City, the City of Kirksville, the City of Kirkwood, the City of Mexico, the City of Raymore, the City of St. Joseph, the City of Springfield, the City of Union, the City of West Plains, Cape Girardeau 63 School District, Rockwood R-VI School District, Linn State Technical College, University of Missouri, and St. Louis Community College.

Fiscal Note Summary

No direct costs or savings for state and local governmental entities are expected from this proposal. Indirect costs or savings related to enforcement actions, missed federal funding, avoided implementation costs, and other issues are unknown.